

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, DECEMBER 9, 2002  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Mayor Murphy at 2:02 p.m. The meeting was recessed by Mayor Murphy at 3:44 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 3:55 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:30 p.m. into Closed Session at 9:00 a.m. on Tuesday, December 10, 2002, in the twelfth floor conference room to discuss existing and anticipated litigation.

**ATTENDANCE DURING THE MEETING:**

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Fyre-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Lane (ek)

**FILE LOCATION: MINUTES**

**ITEM-1: ROLL CALL**

Clerk Lane called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Reverend Mark Will of Saint Luke's  
Lutheran of the Evangelical Lutheran Church in America.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

**TODAY'S ACTION IS:     APPROVED**

Approval of Council Minutes for the meetings of:

- 11/11/2002 - Adjourned
- 11/12/2002
- 11/12/2002 - Special Joint Meeting

11/18/2002

11/19/2002

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:04 p.m - 2:04 p.m.)

MOTION BY INZUNZA TO APPROVE. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: San Diego Zoological Society Day.

**COUNCILMEMBERS ATKINS' AND MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-690) ADOPTED AS RESOLUTION R-297442

Recognizing the Zoological Society of San Diego's commitment to animal conservation;

Proclaiming December 9, 2002 as "San Diego Zoological Society Day."

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:04 p.m. - 2:12 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-50: Monthly Water/Sewer Billing.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/25/2002. (Council voted 6-



3). (Councilmembers Peters, Maienschein, and Frye voted nay).

(O-2003-68) ADOPTED AS ORDINANCE O-19129 (New Series)

Amending Chapter 6, Article 7, Division 2, of the San Diego Municipal Code by amending Section 67.0222 relating to Regulation of Water System - Estimation of Water Bills.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT TO ORDINANCE. Second by Maienschein. Passed by the following vote: Peters-nay, Zucchet-nay, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-51: Brownfields Restoration Program.

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 11/25/2002 (Council voted 9-0):

(O-2003-46) ADOPTED AS ORDINANCE O-19130 (New Series)

Amending Chapter 5, Article 4 of the Municipal Code by adding Division 7, Sections 54.0701, 54.0702, 54.0703, 54.0704, 54.0705, 54.0706, 54.0707, 54.0708, 54.0709, 54.0710, 54.0711, and 54.0712, relating to the investigation and cleanup of contaminated property; and authorizing the City Manager to implement and enforce the California Land Environmental Restoration and Reuse Act, California Health and Safety Code Sections 25401-25402.3 and 57008-57010.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE . Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-52: Two actions related to Amendment to Parking Structure Operating Agreement and Amendment to Centre City Redevelopment Plan.

(Centre City Redevelopment Project Area. District-2.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 11/26/2002 (Council voted 7 to 1. Councilmember Frye voted nay and Councilmember Maienschein not present):

Subitem-A: (O-2003-81) ADOPTED AS ORDINANCE O-19131 (New Series)

Authorizing the City Manager to execute an amendment to the Parking Structure Operating Agreement with the Redevelopment Agency of the City of San Diego.

Subitem-B: (O-2003-79) ADOPTED AS ORDINANCE O-19132 (New Series)

Eliminating the time limit on the establishment of loans, advances, and indebtedness for the Centre City Redevelopment Project Area.

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea (nay on Subitem A), Lewis-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-53: Dedicating City-Owned Land as Park Land - Mira Mesa and Serra Mesa.

(Mira Mesa and Serra Mesa Community Areas. Districts-5 and 6.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the following ordinances:

Subitem-A: (O-2003-85) INTRODUCED, TO BE ADOPTED ON  
JANUARY 7, 2003

Introduction of an Ordinance setting aside and dedicating various parcels of City-owned land known as "Mira Mesa (Headquarters Point)" in perpetuity for park and recreational purposes;

Declaring that the City Council of the City of San Diego hereby specifically reserves the right to establish underground public service easements through and across the dedicated property so long as the construction and maintenance of the subject easements do not substantially negatively impact the availability of the property for use for park and recreational purposes.

Subitem-B: (O-2003-86) INTRODUCED, TO BE ADOPTED ON  
JANUARY 7, 2003

Introduction of an Ordinance setting aside and dedicating various parcels of City-owned land known as "Serra Mesa (Ruffin Canyon)" in perpetuity for park and recreational purposes;

Declaring that the City Council of the City of San Diego hereby specifically reserves the right to establish underground public service easements through and across the dedicated property so long as the construction and maintenance of the subject easements do not substantially negatively impact the availability of the property for use for park and recreational purposes.

**CITY MANAGER SUPPORTING INFORMATION:**

City Charter Section 55 mandates protection of dedicated park, recreation and cemeteries against any use other than for park, recreation and cemetery purposes without a two-thirds vote of the qualified electorate.

Council Policy 700-17, "Policy on Dedication and Designation of Park Lands," mandates that all land acquired for resource-based, population-based park and open space purposes shall be dedicated by ordinance pursuant to Charter Section 55 of the Municipal Code. The Council Policy outlines the process for dedication or designation of park and open space lands, and the

criteria by which land should be considered for dedication or designation. Specifically, the following affirmative conditions must exist prior to dedication of open space land:

1. The land fits the criteria of a resource-based park; is a complete open space system or sub-system; or a sub-system sufficient to stand on its own;
2. The land does not contain areas which are undesirable for park purposes, would be more suitable for other purposes or which could be traded or sold to obtain more desirable park land or to fund park improvements; and
3. The deed to the property is free of restrictions which might preclude dedication as park land.

In accordance with Charter Section 55 and Council Policy 700-17, the Park and Recreation Board has reviewed the City's inventory of open space to determine which open space parcels meet the requirements for dedication. The subject parcels meet these requirements and have been recommended by the Park and Recreation Board for dedication. It was further recommended that public access to the Mira Mesa open space site be maintained through the proposed adjacent development. This is being further reviewed. The parcels proposed for dedication are as follows:

Council District 5: Mira Mesa (Headquarters Point)  
(Consisting of 1 legal description)  
Council District 6: Serra Mesa (Ruffin Canyon)  
(Consisting of 4 legal descriptions)

**FISCAL IMPACT:**

None. This action is concerned only with dedicating City open space.

Herring/Oppenheim/AP

FILE LOCATION: SUBITEMS A & B: NONE

COUNCIL ACTION: (Time duration: 2:22 p.m - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Maienschein.  
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea,  
Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-60: Two actions related to Lewis Middle School - Joint Use and Developer Agreements.

(Allied Gardens Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Introduce the Ordinance in Subitem A and adopt the resolution in Subitem B:

Subitem-A: (O-2003-94) TRAILED TO TUESDAY, DECEMBER 10, 2002

Introduction of an Ordinance authorizing the City Manager to execute an Agreement for the Construction, Operation, Maintenance, and lease of Turfed Fields and Recreational Facilities at Lewis Middle School (Joint Use Agreement) with the San Diego Unified School District of San Diego County, for the construction, operation, maintenance, and lease of turfed multi-purpose fields and recreational facilities at Lewis Middle School, including the development of a turfed field in 1.8 acres of the joint use area.

Subitem-B: (R-2003-766) TRAILED TO TUESDAY, DECEMBER 10, 2002

Authorizing the City Manager to execute an Agreement for the Construction, Operation, Maintenance, and Lease of Turfed Fields and Recreational Facilities at Lewis Middle School (Joint Use Agreement) with the San Diego Unified School District of San Diego County, California, for the construction, operation, maintenance, and lease of turfed multi-purpose fields and recreational facilities at Lewis Middle School, including the development of a turfed field on 1.8 acres of the joint use area;

Authorizing the City Manager to execute an Agreement for Partial Assignment of Agreement for the Construction, Operation, Maintenance, and Lease of Turfed Fields and Recreational Facilities at Lewis Middle School with the Shera Crockett, Inc., dba The Pacific Group, for the development of a turfed field on 1.8 acres of the joint use area, for an estimated cost of \$400,000 in-kind contribution for CIP-29-597.0, Lewis Middle School - Joint Use Area Improvements;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 Capital Improvements Projects Budget by increasing CIP-29-597.0, Lewis Middle School - Joint Use Area Improvements, in the amount of \$59,000 from Infrastructure Improvement Fund - Allied Gardens Community Park Fund (No. 10529); and \$3,000 from Park and Recreation Matching Funds (No. 10365);

Authorizing the City Auditor and Comptroller to appropriate and expend, in addition to the \$150,000 amount previously authorized, \$62,000, for a total amount not to exceed \$212,000 from CIP-29-597.0, Lewis Middle School - Joint Use Area Improvements, for the purpose of developing a turfed field on 1.8 acres of the joint use area.

**CITY MANAGER SUPPORTING INFORMATION:**

Lewis Middle School is located in the Allied Gardens community at 5170 Greenbrier Road, within the boundaries of the San Diego Unified School District, bordered by Allied Gardens /Community Park to the south. A local developer, Reza Shera, has agreed to donate soil and to install turf and irrigate a field, for which the City has expressed interest in joint use of the District property to meet recreational demand for the Allied Gardens community.

The existing joint use agreement for this site expires in two years. It does not include the field which the developer proposes to improve. Therefore, a new joint use agreement is proposed for a twenty-five year period. The proposed joint use agreement incorporates the concepts proposed in the memorandum of Understanding between the City and San Diego Unified School District, which is pending adoption by the School Board of Education and the City.

The developer has incurred additional costs to meet the needs of San Diego Unified School District for this site, and requested additional funds from the City of San Diego to complete the construction project.

**FISCAL IMPACT:**

Funds in the amount of \$59,000 are available from Fund 10529, Infrastructure Improvement Fund, from the Allied Gardens Community Park Job Order No. 009001; and in the amount of \$3,000 from Fund 10365, Park and Recreation Department Matching Funds for this purpose. The annual maintenance costs will be requested as a new facility during the FY04 budget process.

Herring/Oppenheim/AP

Aud. Cert. 2300629.

<b><u>FILE LOCATION:</u></b>	SUBITEMS A & B: LEAS-Shera Crockett, Inc. dba The Pacific Group - Lewis Middle School
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<b><u>COUNCIL ACTION:</u></b>	(Time duration: 2:22 p.m. - 2:32 p.m.)
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Trailed to Tuesday, December 10, 2002.

- \* ITEM-61: Three actions related to Point Loma - Fourth Sludge Pump and Other Modifications Project; Additional Funding.

(See memorandum from Scott Tulloch dated 10/2/2002. Point Loma Community Area. District-2.)

**TODAY'S ACTIONS ARE:**

Adopt the resolutions in Subitems A and B and introduce the ordinance in Subitem C:

Subitem-A: (R-2003-716) ADOPTED AS RESOLUTION R-297443

Authorizing the transfer not to exceed \$805,411 from Fund 41509, CIP-46-502.0, Annual Allocation - Clean Water Pooled Contingency to Fund 41509, CIP-41-925.0, Point Loma - Fourth Sludge Pump and Other Modifications Project;

Authorizing an additional expenditure not to exceed \$1,427,021 from Fund 41509, CIP-41-925.0, Point Loma - Fourth Sludge Pump and Other Modifications for construction, and \$71,351 from Fund 41509, CIP-46-502.0, Annual Allocation - Clean Water Pooled Contingency for project contingency, for a total revised authorized expenditure of \$4,684,257, solely and exclusively for the Point Loma Fourth Sludge Pump Modifications Project, provided the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the necessary matching funds are, or will be, on deposit in the City Treasury.

Subitem-B: (R-2003-715) ADOPTED AS RESOLUTION R-297444

Declaring that the City provides the necessary state matches in the amount of \$800,000 for the Point Loma Fourth Sludge Pump Modifications Project, SRF Loan Number C-06-4786-110;

Declaring that the City provides the state match for administrative fee in an amount not to exceed 0.575 percent of the eligible project costs, if requested, provided the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the necessary matching funds are, or will be, on deposit in the City Treasury;

Declaring that the City establishes a match account for the project and deposits sufficient funds to make state match payments to contractors on the project;

Declaring that the City provides certification with progress payments certifying that payment has been made to contractors on the project;

Declaring that the City provides copies of canceled checks to the State Water Resources Control Board documenting payments.

Subitem-C: (O-2003-88) INTRODUCED, TO BE ADOPTED ON  
JANUARY 7, 2002

Introduction of an Ordinance authorizing the City Manager and his duly designated representatives to apply for, enter into, conduct all negotiations for, and execute and comply with all loan requirements regarding matching funding to fund zero-interest SRF loans, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the necessary matching funds are, or will be, on deposit in the City Treasury;

Amending Ordinance No. O-19106, adopted on September 24, 2002, to increase the authorized SRF loan amount from \$3,900,000 to an amount not to exceed \$4,800,000 for the Point Loma - Fourth Sludge Pump Modifications Project, CIP-41-925.0;

Designating the net System Revenues as the dedicated source of funds for repayment of the above SRF loans made by the SWRB, and shall remain so until such time as the loans are fully repaid, unless change of such dedication is approved by the SWRCB;

Declaring that the City Manager, or his duly designated representatives, may execute the documents for the loans accepted by this ordinance, consistent with the authority granted by Resolution R-288425.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 10/9/2002, NR&C voted 5 to 0 to approve the project and direct staff to report back to the NR&C Committee within sixty days on the following issues.



- A. How many CIP contracts went above the City Engineer's estimate in the past year? Include dollar amount and CIP projects from the following City Departments: Water, Metropolitan Wastewater, and Engineering and Capital Projects.
- B. Comprehensive report of the CIP process. Include feasibility of increasing design-build contracts and other bid options to help address escalating costs.

(Councilmembers Peters, Wear, Frye, Madaffer, and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

On July 8, 2002, the Council authorized the construction of the Point Loma - Fourth Sludge Pump and Other Modifications and an expenditure of \$3,185,885 for construction, related costs and contingency. Two construction bids were received and, although they were within 3 percent of each other, they are approximately 50 percent higher than the authorized amount. Council authorization is requested for the additional expenditures. The additional funding will come from the project CIP and pooled contingency, and there is no impact to other projects.

The existing Sludge Pump Station at the Point Loma Wastewater Treatment Plant (PLWTP) is unique in its design, has specialized equipment, and pumps biosolids through a 17-mile force main to the Metro Biosolids Center. The facility is vital to the operation of the PLWTP and any erosion in its ability to convey biosolids from PLWTP at the desired rate could lead to reduced plant performance and possible permit violations. Additional equipment is needed to maintain reliability.

The original expenditure authorization is insufficient primarily due to added scope, an underestimated engineer's estimate, and higher vendor bids. The additional scope includes added bid allowances for site maintenance and unknown utilities and new drain piping which is needed to more efficiently service the pumps. The added scope accounts for a 11 percent increase. The original engineer's estimate did not adequately reflect construction cost and inflation indices used for the southern California region. This adjustment accounts for a 20 percent increase.

The sole source purchase of specialized equipment is required in order to match existing equipment and minimize operations and maintenance costs. Higher than estimated vendor bids accounts for a 12 percent increase. Other factors such as long lead times for equipment delivery and the installation of equipment into an existing facility may have contributed to the higher bids. It is not anticipated that rebidding the project would result in more favorable bids. The additional expenditure request was approved by the Metro Commission.

On September 9, 2002, the Council authorized \$700,000 to match an expected \$3.9 million State Revolving Fund zero/low interest loan for the project. An additional \$100,000 is needed to

match a loan of \$4.8 million.

**FISCAL IMPACT:**

The total project cost is \$4,684,257 of which \$3,185,885 has been previously authorized. The total of this request is \$1,498,372 of which \$1,427,021 is available in Fund 41509, CIP-41-925.0, Point Loma - Fourth Sludge Pump and Other Modifications for construction, and \$71,351 is available in Fund 41509, CIP 46-502.0, Annual Allocation - Clean Water Pooled Contingency for project contingency.

Mendes/Tulloch/JAW

Aud. Cert. 2300562.

FILE LOCATION: SUBITEMS A & B: MEET  
SUBITEM C: NONE

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN  
SUBITEMS A AND B AND INTRODUCE THE ORDINANCE IN SUBITEM C.  
Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea,  
Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor  
Murphy-yea.

- \* ITEM-62: Three actions related to Approving the Participation of the Unified Port District and the Regional Airport Authority in the San Diego City Employees Retirement System (SDCERS).

**RETIREMENT BOARD'S RECOMMENDATION:**

Introduce the ordinance in Subitem A; and adopt resolutions in Subitems B and C:

Subitem-A: (O-2003-76) INTRODUCED, TO BE ADOPTED ON  
JANUARY 7, 2003

Introduction of an Ordinance amending Chapter II, Article 4, of the San Diego  
Municipal Code by amending Division 1 by amending Section 24.0103; by

amending Division 9 by adding Section 24.0912; and by adding Division 18, entitled "Contracting Public Agencies," and by adding Sections 24.1801, 24.1802, 24.1803, 24.1804, 24.1805, 24.1806, 24.1807, 24.1808 and 24.1809, all pertaining to the Retirement System.

Subitem-B: (R-2003-761) ADOPTED AS RESOLUTION R-297445

Authorizing the participation of the San Diego Regional Airport Authority in the San Diego City Employees Retirement Trust Fund and approving the Agreement between the Airport Authority and the Board of Administration for the San Diego City Employees' Retirement System.

Subitem-C: (R-2003-762) ADOPTED AS RESOLUTION R-297446

Authorizing the participation of the San Diego Unified Port District in the San Diego City Employees Retirement Trust Fund and approving the Agreement between the Unified Port District and the Board of Administration for the San Diego City Employees' Retirement System.

**SUPPORTING INFORMATION:**

On March 5, 2002, the voters of the City of San Diego approved Proposition D, amending the City Charter, Article IX, to add Section 149. Charter Section 149 allows public agencies to participate in the San Diego City Employees' Retirement Trust Fund ("Trust Fund"), subject to City Council approval. Charter Section 149 allows the Retirement Board to contract directly with the public agency to administer the public agency's retirement benefits.

The agreement between the Retirement Board and the public agency must be approved by the City Council before the Retirement Board may administer the public agency's retirement benefits. In addition, Charter Section 149 allows the public agency to establish its own benefits and vesting schedule separate and apart from those applicable to City employees.

It also requires that all costs associated with the public agency's participation in the Trust Fund and administration of its benefits be paid by the public agency and its employees. The proposed ordinance creates Division 18 of the SDMC (§§ 24.1801- 24.1809) which sets forth the rules and procedures for public agencies to participate in the Trust Fund pursuant to Charter Section 149.

Two public agencies, the San Diego Unified Port District ("UPD") and the San Diego Regional Airport Authority ("Airport Authority") want to participate in the Trust Fund under the terms of Charter Section 149. Although the UPD has participated in the Trust Fund since 1964, under an Agreement with the City of San Diego, it wants to revise this relationship to conform to Charter

Section 149. The Airport Authority also wants to participate in the Trust Fund.

It becomes live on January 1, 2003. There are two proposed resolutions to allow these agencies to participate in the Trust Fund: one for the UPD, the other for the Airport Authority. The resolutions authorize these agencies to participate in the Trust Fund and approve their agreements to have the Retirement Board administer their retirement benefits. The two agencies are processed concurrently because they are inextricably entwined.

Approximately 200 of the future Airport Authority employees are currently UPD employees who will transfer to the Airport Authority on January 1, 2003. The agreements with the Retirement Board to administer the UPD and Airport Authority retirement benefits, as well as their separate retirement plans, are attached to the proposed resolutions.

**FISCAL IMPACT:**

There is no fiscal impact. The Port Authority and the Airport Authority, as well as any other public agency who may participate in the Trust Fund in the future, are required by Charter Section 149 and Division 18 of the SDMC to pay all costs associated with their participation in the Trust Fund and the administration of their retirement benefits.

Lexin/Grissom

FILE LOCATION: SUBITEM A: NONE  
SUBITEMS B & C: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE IN SUBITEM A AND ADOPT RESOLUTIONS IN SUBITEMS B AND C. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-100: Three actions related to Inviting Bids and Award of Contract for Sewer Group 2001.

(See memorandum from Frank Belock, Jr. dated 7/23/2002. Uptown and Centre City Community Areas. District-2.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2003-496 Cor. Copy) ADOPTED AS RESOLUTION R-297447

Approving the plans and specifications for the furnishing of all labor, material, tools, equipment, transportation and other expense necessary or incidental and inviting bids for the Construction of Sewer Replacement Group 2001 (Project) on Work Order Nos. 174401/174411;

Authorizing the City Manager to establish contract funding phases and to award a contract to and execute a contract with the lowest responsible bidder;

Authorizing the expenditure of an amount not to exceed \$8,395,960 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, for the purpose of providing funds for construction, contingency, and other Project-related costs for the Sewer Group 680 portion of the project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for the expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$7,556,525 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, for the purpose of providing funds for construction, contingency, and other Project-related costs for the Sewer Group 681 portion of the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K03032C)

Subitem-B: (R-2003-497) ADOPTED AS RESOLUTION R-297448

Certifying that Mitigated Negative Declaration LDR-41-0386 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead

Agency and that the information contained in the report, together with any comments received during the public review process, have been reviewed and considered by Council in connection with the approval of Sewer Replacement Group 2001;

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

Subitem-C: (R-2003-617) ADOPTED AS RESOLUTION R-297449

Certifying that Mitigated Negative Declaration LDR-41-0187 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, have been reviewed and considered by Council in connection with the approval of Sewer Replacement Group 2001;

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/31/2002, NR&C voted 4 to 0 to approve. (Councilmembers Wear, Frye, Madaffer and Inzunza voted yea. Councilmember Peters not present.)

**CITY MANAGER SUPPORTING INFORMATION:**

This project is part of the City's concrete sewer main replacement program. Sewer Group 2001 will replace and realign approximately 32,025 linear feet of existing 6-inch and 12-inch concrete and vitrified clay sewer mains with new 8-inch, 10-inch, and 15-inch sewer mains. The existing

facilities were installed as early as 1903, are undersized, deteriorated, and are in need of replacement.

This project will reduce any stoppages and provide a more reliable sewer system for the service area. This project will also install new pedestrian ramps and resurface all impacted streets.

This Project is located in the Centre City and the Uptown Community Planning Areas and is bounded by Thorn Street and Date Street on the north and south, and by Sixth Avenue and Kettner Boulevard on the east and west. The City will notify residents, via mail, at least one month prior to the construction and again ten days before construction begins, by the contractor, via hand distribution. The contractor will be required to adhere to the traffic control plans which were prepared for this project and will be required to preserve/relocate existing historical stamps. City staff coordinated the construction schedule with the Uptown Planners, the Centre City Development Corporation, the Hillcrest Association, Paradise in Progress, and the Little Italy Business Improvement District. A construction moratorium will be observed during January 2003 for the Super Bowl. Also, funding for City Forces work is included to facilitate the construction of the new sewer main.

**FISCAL IMPACT:**

The total estimated cost of this project is \$15,952,485. Funds of \$15,952,485 are available in Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, for this purpose. This project is scheduled to be phase funded over FY2003 to FY2005.

Loveland/Belock/HR

WWF-02-618.

FILE LOCATION: SUBITEMS A, B & C: CONT - Ortiz Corporation;  
W.O. 174401/174411

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-101: Two actions related to Developer Agreement for Fire Station #46.

(Black Mountain Ranch Community Area. District-1.)





**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2003-720) ADOPTED AS RESOLUTION R-297450

Authorizing the City Manager to execute a Developer Agreement with Santaluz, LLC for the design and construction of Fire Station #46, CIP-33-099.0, in an amount not to exceed \$4,441,000;

Authorizing the City Auditor and Comptroller to increase CIP-33-099.0 by \$898,000 for a total project budget of \$4,441,000.

Subitem-B: (R-2003-752) ADOPTED AS RESOLUTION R-297451

Certifying that the information contained in the Environmental Impact Report, LDR Nos. 95-0173 and 96-7902 has been completed in compliance with the California Environmental Quality Act of 1970, as amended, and State guidelines, and that the information contained in the final document, including any comments received during the public review process, has been reviewed by this Council in connection with the approval of Developer Agreement for Fire Station #46;

Directing the City Clerk to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposed Developer Agreement with Santaluz, LLC (Developer) will provide for the design and construction of Fire Station #46. Santaluz, LLC is the legal Developer of certain real property located in the City of San Diego.

A Planned Residential Development for Black Mountain Ranch was approved by the City Council on October 31, 1995, by Resolution No. R-286503. In a Second Amended and Restated Development Agreement between the City of San Diego and the Developer, the Developer agreed to construct the required proposed fire station as a public improvement. This Development Agreement was approved by City Council on March 17, 1997 and is on file with the City Clerk, Document No. 00-18387.

The approved Planned Residential Development provides for, among other things, the development of 1,121 residential dwelling units. In consideration for the Developer Agreement,

to construct the Project, the Developer will be eligible for reimbursement from other developers for their fair share allocation of the land, improvement and equipment costs of the Project.

The City is willing to allow Santaluz, LLC to assume financial responsibility for, and management of, the design development and construction of the Fire Station #46, subject to the terms and conditions of this agreement.

This project includes the design and construction of a new 10,000 sq. ft. one-story fire station on a 1.073 acre of land located on the NE corner of Camino Ruiz and Lazanja Drive in the community of Black Mountain Ranch. The planned design and construction will include a facility for a 10-person crew, including dormitories, bathrooms, public reception area, kitchen, living area, three bays, a workout room, furnishings, communication equipment and a new fire fighting apparatus.

**FISCAL IMPACT:**

The total estimated project costs of CIP-33-099.0 are \$4,441,000, and of the \$4,441,000, the City has already budgeted \$3,542,500. The increase of the project's budget of \$898,000 reflects the amount necessary to bring the CIP to its new budget. The Developer will advance \$2,821,000 to the City in the form of construction cost. And will also advance to the City \$1,620,000 in cash so that the City can acquire the necessary furniture and equipment to furnish the Fire Station.

Funding for this project will be provided by Santaluz and reimbursed by the Torrey Highlands and Black Mountain Ranch Public Facilities Financing Plans on a monthly basis subject to cash availability at the time of the reimbursement request, and pursuant to the terms and conditions of the Torrey Highlands and Black Mountain Public Facilities Financing Plans and subject to the amount defined in the Financing Plan for the project for that fiscal year.

Loveland/Belock/AO

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-102: Bond and Disclosure Counsel Services Agreement with Orrick Herrington and Sutcliffe for Piper Ranch.

(Otay Mesa Community Area. District-8.)

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-763)

ADOPTED AS RESOLUTION R-297452

Authorizing the City Manager to execute an agreement with Orrick, Herrington and Sutcliffe, for bond and disclosure counsel services;

Authorizing the expenditure of an amount not to exceed \$12,500 for bond counsel services from Fund No. 79840, in the event that bonds are not issued and there are sufficient monies available from the Developer's deposit.

**SUPPORTING INFORMATION:**

The City received a request from an owner of certain property to initiate special assessment district proceedings pursuant to the Municipal Improvement Act of 1913, California Streets and Highways Code sections 10000 et seq [1913 Act]. The district being considered for formation would be called Assessment District No. 4096 (Piper Ranch) [District]. The City Attorney's Office has determined that bond and disclosure counsel are necessary for the evaluation of the formation of the District, the initiation of the formation of the District, and the sale of bonds pursuant to the 1913 Act and the Improvement Bond Act of 1915, California Streets and Highways Code sections 8500 et seq [1915 Act], to finance the public improvements.

After submitting a request for proposal to 47 law firms in San Diego and throughout the state, the City Attorney's Office created an as-needed list of firms to use as bond and disclosure counsel for land secured financings. Orrick Herrington & Sutcliffe [Orrick] was one of the firms selected to be on the as-needed list. Other firms have been utilized from the as-needed list for other land secured financings and Orrick is the next firm in line on the list to be used for such a financing.

**FISCAL IMPACT:**

None to the City, pursuant to Council Policy 800-03 (Public Infrastructure Financing Assessment Districts and Community Facilities), Section III.B.1, developers are required to deposit funds (eligible for reimbursement from bond proceeds) in advance to cover all the costs of analyzing the project. Section III.B.3.d authorizes the use of a special bond counsel to review legal aspects

of the project and to render advice in relation to procedural issues. The Developers have deposited funds with the City Treasurer to cover a portion of the fee for bond counsel services.

This Agreement provides for bond counsel and disclosure counsel services to be paid upon the conclusion of the financing from the proceeds of the bonds. However, a maximum of \$12,500 may be paid for bond counsel services performed in the event that bonds are not issued and there are sufficient monies available from the Developer's deposit.

Noone/KS

Aud. Cert. 2300624.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-103: Amendment to the Revised Retainer Agreement for Outside Counsel.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-736) CONTINUED TO JANUARY 13, 2003, WITH DIRECTION

Authorizing the City Manager to execute an amendment to the revised retainer agreement dated November 20, 2000, with Bingham, McCutchen, LLP (formerly McCutchen, Doyle), for legal services in connection with Clean Water Act matters;

Authorizing the expenditure of an amount not to exceed \$350,000 from Fund No. 41509, Metro Wastewater Department Fiscal Year 2003 Operations and Maintenance Budget, Organization 445, Object Account 4151, Job Order 005040, to provide funds for the above amended agreement.

**CITY MANAGER SUPPORTING INFORMATION:**

Bingham, McCutchen (formerly McCutchen, Doyle) has provided outside counsel services to the Metropolitan Wastewater Department since 1992, and possesses specialized expertise in the City's 301 (h) waiver process and applications. Three new actions require additional service: (1) Baykeeper v. State Water Resources Control Board, ex rel City, Superior Court Case No. GIC 796141 challenges the mass emissions limit of the City's permit; (2) the City is preparing a protective appeal to the EPA Environmental Appeals Board to preserve the challenge to applicability of the Ocean Pollution Reduction Act (OPRA) to the City's 301 (h) present and future permits; (3) EPA intervention in Baykeeper v. City of San Diego, District Court Case No. 01-CV-0550-B (Sewer Spills Case). EPA has informed the City that since the pending case seeks remedies for sewer spills and overlaps with EPA Administrative Order No. CWA-309-9-02-17, the Federal Government will intervene to protect its interests. Such action will complicate the existing action and require more legal review. Outside counsel assistance is needed to assist City staff in each of these matters.

Bingham McCutchen has been retained since 1992 and has successfully assisted the City in defending Clean Water Act actions, and processing Clean Water Act appeals. This Amendment to Revised Retainer Agreement No. RR-294236 will increase funding by \$350,000 to assist City staff in the defense of the state board action, assist in the preparation of an appeal to the Environmental Appeals Board, and assist in the defense of Baykeeper v. City and EPA intervention.

**FISCAL IMPACT:**

Funds in the amount of \$350,000 are available in the MWWD FY 2003 Operations and Maintenance Budget, Fund 41509.

Mendes/Tulloch/WJH

Aud. Cert. 2300572.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:41 p.m. - 2:52 p.m.)

MOTION BY PETERS TO CONTINUE TO JANUARY 13, 2003 WITH DIRECTION THAT A BRIEFING ON THE RETAINER AGREEMENT BE PREPARED AND HEARD IN CLOSED SESSION BEFORE A VOTE IS TAKEN. REQUEST THAT A STATUS REPORT BE PREPARED BY THE CITY ATTORNEY. Second by Atkins. Passed by the following vote: Peters-yea, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,

Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-104: Renewable Energy Purchase Contract with San Diego Gas and Electric (SDG&E) Company.

(See memorandum from Scott Tulloch dated 11/6/2002. Peninsula Community Area. District-2.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-750)                      ADOPTED AS RESOLUTION R-297453

Authorizing the City Manager to execute a five-year agreement with San Diego Gas & Electric Company, for SDG&E's purchase of the excess renewable electrical energy generated by the City's Gas Utilization Facility at the Point Loma Wastewater Treatment Plant but not used at the Plant;

Authorizing the City Auditor and Comptroller to deposit funds received under the agreement in the estimated total amount of \$5,491,225 into Sewer Revenue Fund No. 41508.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/13/2002, NR&C voted 5 to 0 to approve. (Councilmembers Peters, Wear, Frye, Madaffer, and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

Since the collapse of the California Power Exchange and the termination of Uniform Standard Offer contracts for sale of energy to utilities within the State, the City's Point Loma Gas Utilization Facility has been selling its excess power to the energy spot market through its scheduling coordinator contract with Semptra Energy Trading.

Due to changes enacted by the State to the energy sales regulations, the prices on the energy spot market have dropped dramatically over the past year to less than \$.03/kWh.

In order to improve revenues and reduce the operating cost of the Point Loma Wastewater Treatment Plant, MWWD bid into the SDG&E renewable energy solicitation and won the right to enter into a five (5) year contract with SDG&E for the sale of this excess renewable energy.

This contract will give the City increased and stable revenues of \$0.044 per kWh sold, which is approximately \$0.015 over the current spot market values and \$0.004 over the maximum price provided in the short term SDG&E contract that was approved by City Council in August 2002. This agreement replaces that contract.

There are currently several issues under consideration by the California Public Utilities Commission to determine how the State's utilities will take over the energy contracts from the State Department of Water Resources. It is anticipated that this process will cause additional instability in the energy spot market. This contract will provide a stable revenue to the City over the next five (5) years while the Public Utilities Commission decides how future energy and renewable energy contracts with the State's utilities will be handled.

As part of the contract, SDG&E will provide scheduling services to the California Independent System Operator (CAISO), eliminating the need for a separate scheduling coordinator and saving the department an additional \$150,000 over the term of the contract.

**FISCAL IMPACT:**

This contract will generate minimum estimated revenues of \$5,491,225 to the sewer fund over the five (5) year term of the contract.

Mendes/Tulloch/TRA

FILE LOCATION: FRAN-San Diego Gas and Electric (08)

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-105: Extension of Expiring Joint Use Agreements at Various Schools.

(Clairemont Mesa, College Area, La Jolla, Mid-City, Mira Mesa, Navajo, Pacific Beach, Peninsula, Scripps Miramar Ranch, Skyline and Tierrasanta Community Areas. Districts- 1, 2, 3, 4, 5 and 6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-721)

ADOPTED AS RESOLUTION R-297454

Approving the amendment for the extension of Certain Joint Use Agreements with the San Diego Unified School District.

**CITY MANAGER SUPPORTING INFORMATION:**

As of July 2002, the City and San Diego Unified School District have entered into over 75 joint use agreements which facilitate recreational programs through the shared use of turf fields, parking lots, swimming pools, tennis courts, gymnasiums, and other recreational facilities. Within the next year, 27 of these agreements will expire. It is the City's and District's intention to update and renew these agreements pursuant to the Memorandum of Understanding Between the City and the San Diego Unified School District Regarding the Development and Maintenance of Joint Use Facilities (MOU) which was approved by the City Council and the School District's Board of Education on October 7 and 8, respectively.

Therefore, this Amendment for the Extension of Certain Joint Use Agreements Between the City of San Diego and San Diego Unified School District will effectively extend the existing joint use agreements at the following sites on a month-to-month basis until the agreements have been updated to reflect the MOU, and approved by the School Board and the City Council, anticipated to be within two years:

Adams Elementary School; Cabrillo Elementary School; Crown Point Elementary School; Dailard Elementary School; Decatur Elementary School; Doyle Elementary School; Ericson Elementary School; Field Elementary School; Forward Elementary School; Hoover High School; Jerabek Elementary School; Kennedy Elementary School; King Elementary School; Lewis Middle School; Mann Middle School; Marston Middle School; Mason Elementary School; Memorial Community Park; Mesa Viking Neighborhood Park; Mira Mesa High School; Ocean Beach Elementary School; Pacific Beach Middle School; Penn Elementary School; Serra High School; South Clairemont Community Park; Tierrasanta Elementary School and Walker Elementary School.

**FISCAL IMPACT:**

There will be no fiscal impact resulting from this action.

Herring/Oppenheim/DS



FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-106: Cooperative Agreement with CalTrans for Stage 2 of SR-56/Camino Ruiz Interchange.

(Rancho Peñasquitos Torrey Highlands Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-758) ADOPTED AS RESOLUTION R-297455

Authorizing a \$250,000 increase in the FY2003 Capital Improvements Program Budget in CIP-52-463.0, State Route 56, Fund 39069 Torrey Highlands-Development Impact Fees Fund;

Authorizing the City Manager to enter into a Cooperative Agreement with CalTrans, for the design of the westbound on-ramp and eastbound off-ramp at the Camino Ruiz interchange with State Route 56;

Authorizing the appropriation and expenditure of \$250,000 from CIP-52-463.0, Fund 39069, Torrey Highlands-Development Impact Fees Fund, for the purpose of funding the Cooperative Agreement between the City and CalTrans for design of the interchange.

**CITY MANAGER SUPPORTING INFORMATION:**

Construction of the interchange of Camino Ruiz and State Route 56 is being performed in three stages. Stage I, the design and construction of the westbound off-ramp and eastbound on-ramp, was covered under a Cooperative Agreement with CalTrans which was executed on March 27, 2001. Stage II, which would provide for the design of the eastbound off-ramp and the westbound on-ramp, is the subject of this action. Stage III will provide for construction of the ramps

designed in Stage II, and will be brought to Council as a separate action at a later date.

This Cooperative Agreement will authorize the expenditure of \$250,000 to CalTrans for the design of Stage II of the SR-56/Camino Ruiz interchange, including plans, specifications, and estimates. The \$250,000 contribution will come from the Torrey Highlands DIF.

**FISCAL IMPACT:**

\$250,000 from the Torrey Highlands, DIF, Fund 39069, will be transferred to CIP-52-643.0, State Route 56 - Carmel Valley Road to Black Mountain Road, and expended from that account. The scope of work for the State Route 56 project will change as a result of this action, and the total project cost will increase by \$250,000 to a new total project cost of \$202,256,585. A subsequent action to authorize construction of the additional interchange ramps will result in a further increase to the total project cost.

Loveland/Gonzalez/AH

Aud. Cert. 2300607.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-107: Consultant Services for the Ballpark and Redevelopment Project.

(Centre City Redevelopment Project Area. Districts-2 and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-271) ADOPTED AS RESOLUTION R-297456

Authorizing the City Manager to execute an amendment to the Agreement with

Steinmann Facility Development Consultants for Phase VI of consulting services for the Ballpark and Redevelopment Project, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or costs and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of the project and agreement;

Authorizing the expenditure of an additional amount not to exceed \$93,750 from CIP-39-228.0, Ballpark and Redevelopment Project.

**CITY MANAGER SUPPORTING INFORMATION:**

In accordance with the Memorandum of Understanding between the City, CCDC and the Padres, as approved by the electorate on November 3, 1998, the City is responsible for the design and construction of infrastructure components of the Ballpark and Redevelopment Project while the Padres are responsible for the construction of the ballpark facility.

To help accomplish the City's responsibilities regarding infrastructure and provide oversight of the ballpark facility construction on the City's behalf, Mr. Jim Steinmann of Steinmann Facility Development Consultants has provided consulting services to the City.

Approval of a final phase of consulting services for the remainder of the project is requested. Under the agreement, Mr. Steinmann will continue to assist the City in completing the design/build infrastructure project, including resolution of any issues and developing a work program for the balance of infrastructure work, and provide oversight of the ballpark facility construction conducted by the Padres, including attending job walks, reviewing the project schedule and cost changes, developing an improved invoice/cost tracking system, and reviewing all invoices received from the Padres on the City's behalf. Mr. Steinmann's services will continue through the conclusion of the project.

**FISCAL IMPACT:**

This agreement for Phase VI of consulting services is not-to-exceed \$93,750 and will be funded from the Infrastructure budget within the Ballpark and Redevelopment Project, CIP-39-228.0, Ballpark and Redevelopment Project bringing the total to \$343,265 for work between 1998 and project completion.

Herring/LKC

Aud. Cert. 2300110.

FILE LOCATION: MEET (64)

COUNCIL ACTION: (Time duration: 3:16 p.m. - 3:22 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-108: Point Loma - Grit Processing Improvements, Lee & Ro Amendment 2.

(See memorandum from Scott Tulloch dated 10/16/2002. Point Loma Community Area. District-2.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-722) ADOPTED AS RESOLUTION R-297457

Authorizing the City Manager to execute Amendment No. 2 to the agreement with Lee & Ro Consulting Engineers, Inc., for additional design services in connection with the Point Loma - Grit Processing Improvement Project, in an amount not to exceed \$800,000, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purpose and intent of the project and agreement;

Authorizing the expenditure of an amount not to exceed \$800,000 from Fund 41508, CIP-45-943.0, Point Loma - Grit Processing Improvements, contingent upon the passage of the FY2004 and FY2005 Capital Improvement Program and Appropriation Ordinance budgets, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary are, or will be, on deposit with the City Treasurer;

Authorizing and allocating the contract phase funding with Lee & Ro Consulting Engineers, Inc. as follows: Phase 1 (FY2004) = \$500,000, Phase 2 (FY2005) = \$300,000, with execution of both phases by the City Manager contingent upon City Council approval of the Originating Department's FY2004 and FY2005 Capital Improvement Program and Appropriation Ordinance budgets, and provided that the City Auditor first furnishes one or more certificates certifying that the funds necessary for expenditure are,

or will be, on deposit in the City Treasury.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 10/23/2002, NR&C voted 5 to 0 to approve. (Councilmembers Peters, Wear, Frye, Madaffer and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

On December 5, 2000, the City Council approved the original agreement with Lee & Ro, Inc. to provide engineering services for the Grit Processing Improvement Project (GIP) at the Point Loma Wastewater Treatment Plant. Myong H. Ro is the sole shareholder of Lee & Ro, Inc. a California corporation. In January of 2001, a no cost Amendment No. 1 was executed to correct the fee distribution for the scope of work. Approval of Amendment No. 2 in the amount of \$800,000 is requested for additional engineering design services.

The original design contract was negotiated based on an estimated construction drawing count of 180. The design currently projects that 306 drawings will be needed for construction bids. The additional design and drawings are needed for a more extensive interim grit processing facility, the addition of baffles and inverted weirs at the existing headworks and grit basins, loop diagrams which were previously planned to be prepared through other contracts, and incorporation of value engineering ideas into the design.

An interim grit processing facility will be required to maintain grit removal treatment during construction of the GIP. Originally, it was envisioned that the contractor would relocate existing plant equipment. This was later deemed to be unacceptable due to the condition of the existing equipment and the fact that this "interim" facility would be used for at least two years while the permanent facility is constructed. Additional design is needed for the contractor to bid and construct a more substantial interim grit processing facility.

As part of the existing contract, a physical model of the headworks area of the plant was constructed to evaluate its hydraulics. From this model, it was determined that baffles at the headworks of the plant and inverted weirs at the existing grit tanks are needed to improve treatment.

Additional design is needed to install these enhancements. Prior to value engineering (VE), the design construction cost estimate had risen to over \$22 million. Through the VE process, this estimate has been reduced to its current level of \$18.3 million. To realize these VE construction cost savings, additional design work is needed to reduce the size of the new treatment process building. The Metro Commission approved the amendment.

**FISCAL IMPACT:**

The original agreement with Lee & Ro consulting Engineers, Inc. was for \$2,134,362. Amendment No. 1 was no cost, and Amendment No. 2 will add \$800,000 for a new total of \$2,934,362. Funding is available from Fund 41508, CIP-45-943.0, Point Loma - Grit Processing Improvements, in FY2004 for \$500,000 and FY2005 for \$300,000 contingent upon Council approval of the FY2004 and FY2005 Capital Improvement Program & Appropriation Ordinance Budgets.

Mendes/Tulloch/JAW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-109: Interstate 5 and State Route 56 Freeway Connectors.

(Carmel Valley Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-723) ADOPTED AS RESOLUTION R-297458

Authorizing the City Manager to accept a Program Supplement for \$300,000 of Federal Demonstration Funds, Fund 38522 for CIP-52-311.0, Interstate 5 and State Route 56 Freeway Connectors;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$300,000 from Fund 38522 for CIP-52-311.0 Interstate 5 and State Route 56 Freeway Connectors, contingent upon receipt of a fully executed Program Supplement;

Declaring that the acceptance of the Program Supplement requires local matching funds authorizing the \$75,000 increase to the Fiscal Year 2003 Capital Improvements Program

Budget in CIP-52-322.0, Interstate 5 and State Route 56 Freeway Connectors, Fund 79011, Pacific Highlands Ranch Facilities Benefit Assessment, for the purpose of providing the required local match for the Federal Demonstration Funds;

Authorizing the City Auditor and Comptroller to appropriate and expend \$75,000 from Fund 79011 for CIP-52-311.0, for the purpose of providing the required local match for the Federal Demonstration Funds.

**CITY MANAGER SUPPORTING INFORMATION:**

The Interstate 5 (I-5)/State Route 56 (SR-56) Freeway Connectors Project consists of modifying the access between SR-56 and the section of I-5 north of SR-56 by constructing improvement to local streets, widening of I-5, widening and realignment of on and off ramps and the construction of direct connectors from SR-56 to I-5.

This Council Action will provide for the initial funding to begin the Preliminary Engineering phase of the project.

In early 2003, Council approval will be requested for the hiring of the consultant who will prepare the Project CEQA and NEPA Environmental Documents and the Project Report.

**FISCAL IMPACT:**

In order to receive \$300,000 in Demonstration Funds for the project, the City of San Diego is required to obligate \$75,000 (20% of \$375,000) in matching funds. Pacific Highland Ranch Facility Benefit Assessment Funds are being used as the matching fund source.

Loveland/Belock/PB

Aud. Cert. 2300619.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-110: Lead and Asbestos Abatement for Building Demolition Project at Brown Field Airport.

(Otay Mesa Community Area. District-8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-728)                      ADOPTED AS RESOLUTION R-297459

Authorizing the addition of CIP-31-175.0, Demolition of Asbestos and Lead-Contaminated Buildings at Brown Field, to the Fiscal Year 2003 CIP Budget;

Authorizing the City Manager to execute an agreement with Parson Brickerhoof Quade & Douglas, Inc., for the preparation of demolition plans, specifications, and bid documents for the demolition of asbestos and lead-contaminated buildings at Brown Field;

Authorizing the Auditor and Comptroller to transfer \$654,000 from CIP-31-001.0, Annual Allocation to CIP-31-175.0, Demolition of Asbestos and Lead-Contaminated Buildings at Brown Field;

Authorizing an increase of \$151,000 to the Fiscal Year 2003 Capital Improvement Program budget in Fund 41100, Airports Enterprise Fund;

Authorizing the Auditor and Comptroller to appropriate and expend \$805,000 in CIP-31-175.0.

**CITY MANAGER SUPPORTING INFORMATION:**

Eleven City-owned buildings scheduled for asbestos and lead base paint abatement are located at Brown Field Airport. These buildings were reviewed by the Historic Resource Board and not found to warrant consideration for historic designation due to their lack of architectural distinction and/or poor maintenance condition.

An Asbestos and Lead Inspection Report was recently completed by the City Environmental Services Department. The report determined that the hazardous materials and toxins found in the buildings exceeded safety codes (Cal-OHSA) and the U.S. Department of Housing and Urban Development (HUD). Abatement must occur before demolition can begin. The Environmental Protection Division from the Environmental Services Department will manage abatement portion of the project.



This action is to contract with the consulting firm of Parson Brickerhoff Quade & Douglas, Inc., to prepare Demolition Plans for the removal of the eleven buildings. The consultant will employ the most advanced techniques of deconstruction and salvage practices in an effort to decrease City cost and increase salvage value of material that could be recycled. Where deconstruction is not feasible due to health and safety concerns, demolition will be employed. This portion of the project is \$46,864.

**FISCAL IMPACT:**

The project will be solely funded with Airport Enterprise Funds. The \$654,000 for the project would be transferred from CIP-31-001.0, Annual Allocation to CIP-31-175.0, Demolition of Asbestos and Lead Contaminated Buildings at Brown Field, and \$151,000 will be transferred from the Airports Enterprise Fund balance for Phase One. Total project \$805,000.

Herring/Griffith/TM

Aud. Cert. 2300612.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-111: Final Subdivision Map of Torrey Reserve Gateway Unit No. 2.

(Sorrento Hills Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-679)

ADOPTED AS RESOLUTION 297460

Approving the map of Torrey Reserve Gateway Unit No. 2.

**CITY MANAGER SUPPORTING INFORMATION:**

This map proposes the subdivision of a 23.318 acre site into 9 lots. There are existing apartments on the site; this map will allow for conversion to a 473 condominium unit development. It is located southwesterly of Carmel Mountain Road and Vista Sorrento Parkway in the Sorrento Hills Community Plan area.

On June 30, 1998 the City Council of the City of San Diego approved Vesting Tentative Map No. 960464 per Resolution No. R-290409 for Torrey Reserve Gateway. The City Engineer has approved the final map and states that all conditions of the Tentative Map have been satisfied.

This map requires City Council approval because a building restricted easement is being vacated and the offer of a street reservation is being terminated. Neither the easement nor the street reservation were required for the development of the project.

There are no public improvements required for the recording of this subdivision map. All improvements have been completed. A cash bond in the amount of \$10,000 has been posted as surety for the setting of survey monuments.

Special financing plans have been established to finance the public facilities required for the Sorrento Hills Community Plan area. In connection with Council approval of this final map, the subdivider shall comply with the provisions of the financing plan through satisfaction of the terms of the Sorrento Hills Development Agreement.

Subdivider, by letter, has given assurance to the City of San Diego that he/she subscribes to the Affirmative Marketing Program as shown in the "Memorandum of Understanding between the San Diego Building Industry Association and U.S. Department of Housing and Urban Development".

This action is to convert existing apartments into condominiums that would not result in any increase in trip generation. Therefore, a traffic information table is not provided for this project.

**FISCAL IMPACT:**

None.

Ewell/Broughton/GB

FILE LOCATION: LUP-Torrey Reserve Gateway Unit No. 2, 12/09/02 (65)

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-112: Vacation of a Water Easement in Parcels 1 and 2 of Parcel Map 17892.

(University Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-710) ADOPTED AS RESOLUTION R-297461

Vacating the City's interest in the water easement located in Parcels 1 and 2 of Parcel Map 17892.

**CITY MANAGER SUPPORTING INFORMATION:**

City Council action is requested to vacate a water easement in Parcels 1 and 2 of Parcel Map 17892. This property is located in the University Planning area within Council District 1. The easement was granted to the City in August 1997 for the installation of a water facility. The water line was installed in a different location to facilitate development of the site and another easement was granted in its place. The Water Section of the Development Services Department has reviewed the abandonment request and recommends approval of the abandonment. This easement was acquired at no cost to the City.

City staff recommends approval of the easement abandonment.

**FISCAL IMPACT:**

None, all costs have been paid by the applicant.

Ewell/Broughton/AEA

FILE LOCATION: DEED F-9358

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-113: Communication/Data Transmission Facility Easement - Maintenance Warehouse - Los Peñasquitos Canyon Preserve.

(Sabre Springs Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-706) ADOPTED AS RESOLUTION R-297462

Authorizing the execution of a deed conveying to Maintenance Warehouse, a communication facility easement for the purpose of constructing and installing a communication/data transmission facility, for a fiber optic data line, affecting a portion of Lot 7 of Creekview South, Parcels 23 through 27, Unit No. 1, according to Map 12558;

Stating for the record that the Final Mitigated Negative Declaration was reviewed and considered prior to approving the project, and that the City Clerk is directed to file a Notice of Determination.

**CITY MANAGER SUPPORTING INFORMATION:**

Maintenance Warehouse, a subsidiary of Home Depot, has applied for an easement comprising of approximately 5,820 square feet (0.134 acre) through City-owned, designated Open Space land in the Los Peñasquitos Canyon Preserve for the purpose of constructing and installing a communication/data transmission facility from its call center to the Sabre Springs Parkway Right-of-Way.

While potentially alternative routes not requiring an easement or encroachment through the Preserve were examined, none were feasible; thus, this is the most direct route to Sabre Springs Parkway from the call center, with the least impact to the Preserve. Although the easement will

run through Open Space, it follows the alignment of an existing dirt path/road, which runs through an already-disturbed portion of the Preserve, and an existing Arizona-style bridge.

The communication facility will consist of conduits and a private data transmission line servicing Maintenance Warehouse's call center only, and will not be shared, franchised, leased, rented or sold to any other users. Nearly eighty-five percent (85%) of the facility, approximately three hundred and sixty-three linear feet (363'), will be underground; an approximately seventy-nine linear foot (79') section will be above-ground and attached to the northwesterly face of the existing bridge that crosses the Los Peñasquitos Canyon Creek in order to avoid disturbing the creek bed.

The San Diego Planning Commission approved the Site Development and Public Right-of-Way Use Permits for the facility, along with the associated Mitigated Negative Declaration, at the Planning Commission Meeting held October 31, 2002. However, the Permits will not be issued until the easement is authorized and the easement deed is executed.

The subject easement has been valued at \$2,200 by staff of the Valuation Section of the Real Estate Assets Department. Maintenance Warehouse has agreed to pay \$5,000 for the easement, in addition to the pre-paid \$400 easement processing fee, for a total of \$5,400.

**FISCAL IMPACT:**

\$5,400 will be deposited in the City's General Fund 100.

Herring/Griffith/FLR

FILE LOCATION: DEED F-9359

COUNCIL ACTION: (Time duration: 3:02 p.m. - 3:15 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-114: Two actions related to Drainage Easement Vacation and Drainage Easement Set Aside in Section 20, Township 14 South, Range 2 West S.B.M.

(Miramar Ranch North Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2003-574) ADOPTED AS RESOLUTION R-297463

Vacating the City's interest in the drainage easement located in Section 20, Township 14 South, Range 2 West S.B.M.

Subitem-B: (R-2003-575) ADOPTED AS RESOLUTION R-297464

Setting aside a drainage easement in City-owned land in Section 20, Township 14 South, Range 2 West S.B.M.

**CITY MANAGER SUPPORTING INFORMATION:**

This site is located southeasterly of Scripps Poway parkway and I-15 in the Miramar Ranch North Community Plan area. Council is requested to approve the vacation of an unneeded drainage easement and set aside a new drainage easement in Section 20, Township 14 South, Range 3 West S.B.M. as shown on Engineering Drawing Nos. 19403-B and 19595-B. Both easements are in a parcel of City-owned land which is going to be used for a pump station.

The easement being vacated was granted per Document 1991-0537864 on October 17, 1991. A review of the records provided to the Real Estate Assets Department indicates that the City has no monetary interest in the referenced easement. There is no present or anticipated future use for the existing easement in its current configuration. The project has been re-designed and a new easement is being set aside to correspond with the approved plans. These easements are of approximately equal value. Staff recommends approval of the vacation and set aside.

**FISCAL IMPACT:**

None.

Ewell/Broughton/GRB

FILE LOCATION: SUBITEMS A & B: DEED F-9360

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-115: Drainage Easement Vacation in Parcel 2 of Parcel Map No. 18938.

(Scripps Miramar Ranch Community Area. District-5.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-759)                      ADOPTED AS RESOLUTION 297465

Vacating the City's interest in the drainage easement located in Parcel 2 of Parcel Map No. 18938.

**CITY MANAGER SUPPORTING INFORMATION:**

Council is requested to approve the vacation of a drainage easement in Parcel 2 of Parcel Map No. 18938 as shown on Engineering Drawing 19793-D. This site is located southeasterly of Pomerado Road and Spring Canyon Road in the Scripps Miramar Ranch Community Planning Area in Council District 5. The parcel which contains the unneeded easement is owned by McMillin Montecito 109, LLC.

The drainage easement being vacated is no longer needed for the planned development. A review of the records provided to the Real Estate Assets Department indicate that the City has no monetary interest in the referenced easement. There is no future or anticipated use for the easement in its present location.

Staff recommends approval of the vacation.

**FISCAL IMPACT:**

None.

Ewell/Broughton/GRB

FILE LOCATION: DEED F-9361

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-116: Building Restricted Easement Vacation within Parcel 2 of Parcel Map 18867.

(Torrey Highlands Subarea IV Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-733) ADOPTED AS RESOLUTION R-297466

Vacating the City's interest in the building restricted easement located in Parcel 2 of Parcel Map No. 18867.

**CITY MANAGER SUPPORTING INFORMATION:**

Council is requested to approve the vacation of an unneeded building restricted easement in Parcel 2 of Parcel Map 18867 as shown on engineering Drawing No. 19920-B. This site is located southeasterly of Torrey Santa Fe Road and Camino Ruiz in the Torrey Highlands Subarea IV Community Plan area.

The easement being vacated was granted per Parcel Map Nos. 18867 and 18411 in order to limit development until such time as the tentative map conditions for the Planned Residential /Planned Industrial Development were satisfied. A final subdivision map is being processed at this time which will insure that the TM conditions are met. The easement must be vacated in order to record the map.

**FISCAL IMPACT:**

None.

Ewell/Broughton/GB



FILE LOCATION: DEED F-9362

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-117: Two actions related to Lease Approval - Elementary Institute of Science.

(Emerald Hills Community Area. District-4.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2003-605) ADOPTED AS RESOLUTION R-297467

Authorizing the City Manager to execute a 15-year lease agreement with Elementary Institute of Science, for construction, operation, and maintenance of a parking lot and a portion of the science instructional building on approximately 0.25 acres of City-owned land located at 608 51<sup>st</sup> Street, at an initial rent of \$1 per year.

Subitem-B: (R-2003-612) ADOPTED AS RESOLUTION R-297468

Declaring that the information contained in Mitigated Negative Declaration, LDR-99-0455, including any comments received during the public review process, has been reviewed and considered by Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of a 15-year lease agreement with Elementary Institute of Science;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

**CITY MANAGER SUPPORTING INFORMATION:**

The Elementary Institute of Science is a nonprofit organization which furnishes after-school and Saturday science classes to school-age children. From 1968 until 1999, the Institute conducted

its programs from a house it leased from the City on 51<sup>st</sup> Street, bounded by Market Street and Euclid Avenue. The City tore down the house in 1999 to facilitate a slope restoration project on Euclid Avenue and the Institute's plans for a new building. The City also assisted the Institute in 1996 with Block Grant Funds to purchase and own three vacant lots contiguous with the City-owned property where the house stood.

The Institute embarked upon a capital campaign in 1997 to raise approximately \$5 million to construct the new 14,700-square-foot building. The building has been under construction for over a year under a City-approved Conditional Use Permit and is nearing completion. Most of the building is on the land owned by the Institute. The park on the 0.25-acre City parcel is the parking lot and the northerly edge of the building. Since the old lease was terminated soon after the house was torn down, proposed for approval is a new 15-year lease of the City property. Rent is \$1 per year plus a yearly \$2,500 administrative fee to be adjusted annually for inflation. All improvements to the City's property are at the Institute's expense as well as ongoing maintenance and utilities. The value of the City's property is estimated by City staff to be \$67,000 as of October 2002.

**FISCAL IMPACT:**

An annual administrative fee, initially \$2,500, will be deposited into the General Fund 100.

Herring/Griffith/PTC

FILE LOCATION: SUBITEMS A & B: LEAS-Elementary Institute of Science

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-118: Lease Approval - Boys & Girls Clubs of San Diego.

(Linda Vista Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-596)

ADOPTED AS RESOLUTION R-297469

Authorizing the City Manager to execute a 25-year lease agreement with Boys' and Girls' Clubs of Inland North County, dba Boys & Girls Clubs of San Diego, for 2.05 acres located at 2230 East Jewett Street in Linda Vista, including a building on the property that includes an indoor swimming pool, gymnasium, computer and art rooms, at an initial rent of \$1 per year.

**CITY MANAGER SUPPORTING INFORMATION:**

Since 1954, the Boys & Girls Clubs has leased approximately 2.05 acres at 2230 East Jewett Street in Linda Vista to provide recreational, educational, health, social and cultural activities for the youth of the surrounding community. The current 50-year lease expires in 2004. The Boys & Girls Clubs have constructed a building on the property that includes an indoor swimming pool, gymnasium, computer and art rooms.

The Boys & Girls Clubs requested an early renewal of its lease to enable it to receive grant funding and to engage in a capital donation campaign to further improve the property with a teen center. The new lease will require the Boys & Girls Clubs to expend not less than \$2 million to upgrade the existing improvements and to construct a teen center. A complete general development plan is required within the first year of the lease. The proposed lease has an initial term of 25 years along with a 15-year extension option at nominal rent of \$1 per year. The lessee will be responsible for all operations and maintenance costs associated with the premises. In addition, the new lease requires the lessee to pay the City a \$2,500 annual administrative fee, which will be adjusted annually. The boundaries of the leasehold will remain the same.

The fee simple value of the land as unimproved was estimated by City staff as of September 24, 2002 to have a fair market value of \$1.6 to \$1.8 million.

**FISCAL IMPACT:**

\$2,500 per year, subject to annual CPI adjustments, will be deposited into the General Fund.

Herring/Griffith/MW

**FILE LOCATION:** LEAS-Boys' and Girls' Clubs of Inland North County, dba  
Boys & Girls Clubs of San Diego

**COUNCIL ACTION:** (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-119: Transfer of District 3 Community Development Grant Funds.

(Hillcrest, Otay Mesa Community Areas. Districts-3 and 8.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-748)                      ADOPTED AS RESOLUTION R-297470

Authorizing the reprogramming of an amount not to exceed \$328,005 from Council District 3 FY 2003 Community Development Block Grant [CDBG] fund allocation for payment of a Section 108 loan (42654/6505) to the following: (a) Council District 3 FY 2003 reserve (4266/6603), a sum of \$258,005; and (b) CIP-35-087.0, Otay Mesa/Nestor Branch Library Expansion (4252/5221), a sum of \$70,000;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$70,000 from CIP-35-087.0, Otay Mesa/Nestor Branch Library Expansion, Capital Outlay Fund 30245, Dept. 30244, Org. 106, Job Order No. 350870, to the General Fund, Dept. 042; authorizing the expenditure of said funds for the purpose of funding the Center for Social Services Youth Counseling Project at the Hillcrest Youth Center.

**CITY MANAGER SUPPORTING INFORMATION:**

In the FY 2003 CDBG allocation process, Council District 3 allocated funds for the repayment of a proposed Section 108 loan for infrastructure projects in District 3. Due to the timing of the loan, this payment will not be needed in FY 2003. The Council District wishes to transfer these funds to its FY 2003 reserve (\$258,005), and to the Otay Mesa/Nestor Branch Library Expansion (\$70,000).

This action also transfers \$70,000 from the Otay Mesa/Nestor Branch Library Expansion to the Human Care Fund to fund a counseling and support program for low-income youth at the Hillcrest Youth Center. The Hillcrest Youth Center provide services to youth to address various issues, i.e., suicide prevention, drug and alcohol abuse, and HIV education to name a few. Funding for this program will provide services to approximately 600 clients through educational

activities, recreational and social activities, and Youth Volunteer Recruitment and Training. Clients served are located throughout the City of San Diego.

**FISCAL IMPACT:**

Funds for this action are available in the Community Development Block Grant (CDBG) program.

Herring/Cunningham/ELL

Aud. Cert. 2300615.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-120: Transfer of Funds - South Clairemont Community Park Picnic Shelter.

(Clairemont Mesa Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-502) ADOPTED AS RESOLUTION R-297471

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$16,500 from Park and Recreation Grant Match Fund, Fund No. 63022, to CIP-29-664.0, South Clairemont Community Park Picnic Shelter;

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2002 budget by an increase of \$16,500 to be placed into CIP-29-664.0, South Clairemont Community Park Picnic Shelter, to augment previously authorized expenditures;

Authorizing the City Auditor and Comptroller to expend \$16,500 from CIP-29-664.0,

South Clairemont Community Park Picnic Shelter, to augment previously authorized expenditures for park improvements;

Authorizing the City Auditor and Comptroller, upon advice from the Engineering and Capital Projects Department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**CITY MANAGER SUPPORTING INFORMATION:**

The existing South Clairemont Community Park is located on Clairemont Drive in the community of Clairemont Mesa. The proposed picnic shelter will provide shade for park users and comply with the Americans with Disabilities Act (ADA) requirements. On September 12, 2002, two bid packages were received for the project. The lowest responsible bidder submitted a base bid in the amount of \$64,800. This request will transfer additional funds into the project to allow the City Manager to enter a contract with the low bidder.

**FISCAL IMPACT:**

The estimated project cost is \$106,675 of which \$90,175 has been previously approved. The remaining funds (\$16,500) are available in CIP-29-664.0, South Clairemont Community Park Picnic Shelter, Fund No. 630221 (\$16,500).

Loveland/Belock/AO

Aud. Cert. 2300485.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-121: Two actions related to Award of Contract and Additional Funding for the Construction of Cottontail Lane Sewer Replacement.

(See memorandum from Frank Belock, Jr. dated 10/16/2002. La Jolla Community Area. District-1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2003-503)      ADOPTED AS RESOLUTION R-297472

Authorizing the City Manager to award a Project contract to and execute a contract with Sim J. Communications, W.O. 175991, in an amount not to exceed \$842,227.45;

Authorizing the additional expenditure of an amount not to exceed \$161,263.71 from Sewer Fund 41506, CIP-46-206.0, Emergency Construction - Sewer Main Replacement, for the purpose of providing funds for the Project and related costs;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budget funds, if any, to the appropriate reserves. (BID-K02093C)

Subitem-B: (R-2003-737)      ADOPTED AS RESOLUTION R-297473

Certifying that the information contained in the Mitigated Negative Declaration LDR-41-0507, has been completed in compliance with the California Environmental Quality Act of 1970, as amended, and State guidelines, and that said Declaration reflects the independent judgment of the City as Lead Agency and that the information contained in the report, including any comments received during the public review process has been reviewed and considered by this Council in connection with the approval of the award and additional funding for the Construction of Cottontail Lane Sewer Replacement;

Directing the City Clerk to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the project.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 10/23/2002, NR&C voted 5 to 0 to approve. (Councilmembers Peters, Wear, Frye, Madaffer, and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

Cottontail Lane Sewer Replacement is part of the City of San Diego's continuing Annual Sewer Main Replacement Program. This project is in the La Jolla community area and consists of replacement and rehabilitation of approximately 3,194 feet (0.61 miles) of 8-inch sewer main and abandonment of 940 feet (0.18 miles) of 6-inch sewer main in easements on private properties.

Also, this project includes the construction of four pedestrian ramps and slurry sealing of the impacted streets. The streets affected by construction operations within this project are: La Jolla Mesa Drive, Germaine Lane, Cottontail Lane, and Deer Hill Court. Residents will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution. The contractor will be required to provide traffic control plans for the entire project area to the City of San Diego's Traffic Signal & Traffic Control Section for approval.

During design, the Project Manager and Project Engineer attended one community meeting and arranged two on-site meetings with property owners.

Funding for this project was approved by the City Council on April 9, 2002. Bids were opened on April 30, 2002. There were twenty-three (23) bid packages issued and four (4) bid packages received. Sim J. Communications was the apparent low bidder with a bid amount of \$842,227.45. Based upon staff's investigation of current economic conditions for the underground utility industry, we do not believe re-advertising will result in lower bids.

**FISCAL IMPACT:**

The total estimated cost of this project is \$1,252,548.91. Authorizing an additional expenditure of \$161,263.71 from Sewer Fund 41506, CIP-46-206.0, Emergency Construction - Sewer Main Replacement. Funding for FY 2003 is available in Sewer Fund 41506, CIP-46-206.0, Emergency Construction - Sewer Main Replacement in the amount of \$1,252,548.91 for this purpose.

Loveland/Belock/HR

Aud. Cert. 2300492.

WWF-03-633.

FILE LOCATION: SUBITEMS A & B: CONT-Sim J. Communications,  
W.O. 175991

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



ITEM-122: Accepting Funding from George Hunt, Citizen Financier, for Resurfacing of Sherman Street.

(Linda Vista Community Area. District-6.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-388)

ADOPTED AS RESOLUTION R-297474

Authorizing the City Manager to execute an agreement with, and to accept \$25,000 in funding, from George Hunt, Citizen Financier, for implementation of a pilot project to resurface the concrete street surface of Sherman Street between Grant Street and Lovelock Street;

Authorizing the deposit of these funds into Street Division Operating Fund 10440, and the expenditure of said funds in conjunction with "Resurfacing of Various Streets City Wide, Group R-6," which will begin construction in Fiscal Year 2003;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to return any excess funds to George Hunt, Citizen Financier.

**CITY MANAGER SUPPORTING INFORMATION:**

Accepting this agreement will provide \$25,000 of funding to the City's Transportation Department, Street Division, to repair the concrete surface of Sherman Street between Grant Street and Lovelock Street. The current condition of the street will be improved, and the useful life of the street will be extended for approximately three years, in a manner similar to an asphalt overlay. The Street Division is researching alternative methods and design specifications for asphalt overlays on concrete streets, and will choose appropriate materials, methods, and design specifications which another municipality has implemented, on that section of Sherman Street as a pilot project. Mr. Hunt would like to donate this money to assist the Street Division in going forward with this pilot project to improve the condition of his street. Mr. Hunt is offering this money as a restricted donation for a specific purpose in accordance with Council Policy 100-02. The pilot project is estimated to cost a total of \$75,000.

The Street Division intends to complete this pilot project in conjunction with "Resurfacing of Various Streets City Wide, Group R-6," which is expected to begin construction in FY03. The

work on Sherman Street is expected to take approximately two weeks to complete. Any unused funds will be returned to Mr. Hunt upon completion of the project.

**FISCAL IMPACT:**

There is no significant cost associated with the acceptance of this agreement and said funds.

Loveland/Gonzalez/MMW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:33 p.m. - 2:35 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote:  
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-123: Approving the Plans and Specifications and Awarding of Contract for the Construction of Sewer Pump Stations 77A and 77B Rehabilitation.

(See memorandum from Scott Tulloch dated 11/6/2002. Rancho Bernardo, San Pasqual, Lake Hodges Community Areas. District-5.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-753) ADOPTED AS RESOLUTION R-297475

Authorizing the transfer of an amount not to exceed \$3,293,892 from Fund 41506, CIP-46-168.0, Telemetry Control System - SCADA, to Fund No. 41506, CIP-46-106.0, Annual Allocation - Pump Stations Restorations;

Authorizing an additional expenditure of an amount not to exceed \$661,251 from Fund 41506, CIP-46-106.0, Annual Allocation - Pump Station Restorations for the Project, for construction of Sewer Pump Stations 77A and 77B Rehabilitation, construction management services, contingency, and related costs for a total project cost not to exceed \$6,237,650, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for the expenditure under established contract phases are, or will be, on deposit

with the City Treasurer;

Authorizing the City Manager to execute a Phase Funded Agreement with Orion Construction Corporation, to perform Rehabilitation of Sewer Pump Stations 77A and 77B in the amount of \$4,893,000;

Authorizing the funding for Phase 1 of the Project in the amount of \$4,360,950 of which \$3,439,000 is for construction, and \$921,950 is for construction management, contingency, related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager to award Phase 2 of the Project in the amount of \$1,876,700 contingent upon subsequent City Council approval of the Metropolitan Wastewater Department's operating budget for Fiscal Year 2004, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for expenditures are, or will be, on deposit with the City Treasurer.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/13/2002, NR&C voted 5 to 0 to approve. (Councilmembers Peters, Wear, Frye, Madaffer, and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

This project is part of the City of San Diego's continuing Annual Sewer Pump Station Rehabilitation Program. This project will upgrade existing Sewer Pump Stations 77A and 77B (SPS 77 A & B), which have experienced numerous mechanical failures due to electrical malfunctions and mechanical wear. Sewer Pump Station 77A is located in the Rancho Bernardo Community area and Booster Sewer Pump Station 77B is located in the San Pasqual/Lake Hodges Community area.

On July, 23, 2001, pursuant to Resolution R-295170, the City Council approved the advertisement for Bids for the upgrade of SPS 77 A & B. The bids were opened on October 4, 2001, and later rejected, in order to take the opportunity to clarify the plans and specifications, and to incorporate new electrical switching gear. Subsequently, the project was re-advertised and bids were opened on August 14, 2002. The City received two (2) bids. The low bid of \$4,893,000 was 6% above the engineer's estimate of \$4,600,000. MWWD is requesting additional funds in the amount of \$307,650 for construction and contingency and authorization to award this contract to Orion Construction, the lowest responsible bidder. In addition, MWWD

requires additional funding for assistance from the Wastewater Collection Division during the critical switchgear change, construction management services, and continuing project management services, estimated at \$153,601. Also, because of vandalism and unauthorized entry into the pump station site and adjacent overflow pond, it is requested that an additional \$200,000 be authorized for security measures, including installation of security cameras.

**FISCAL IMPACT:**

The total project cost is \$6,237,650, of which \$5,576,399 has been previously authorized by Resolution No. R-296227 on April 2, 2002. The total of this request is \$661,251. Funds will be transferred from Sewer Fund No. 41506, CIP-46-168.0 Telemetry Control System - SCADA to CIP-46-106.0 Annual Allocation for Sewer Pump Station Rehabilitation to fund this additional cost. The extra funds were available in the Telemetry Control System - SCADA project due to lower than anticipated bid received on the project. This project will be phase-funded in the amount of \$4,360,950 for FY 2003, and \$1,876,700 for FY 2004.

Mendes/Tulloch/AKS

Aud. Cert. 2300606.

FILE LOCATION: CONT-Orion Construction Corp.; W.O. 173912

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-124: Figg Urban Forestry Fund - Establishment of an Endowment Fund for the Planting and Maintenance of Jacaranda Trees.

(District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-637)

ADOPTED AS RESOLUTION R-297476

Authorizing the City Manager to accept a generous, charitable donation from the Estate of Walter Carlisle Figg, Jr., in the total amount of \$313, 223.73 for the purposes prescribed by the Last Will and Testament of Walter Carlisle Figg, Jr., viz., the planting and maintenance of jacaranda trees in the public right of ways throughout the City of San Diego;

Declaring the City intends to implement a planting and maintenance program for jacaranda trees pursuant to the recommendations of the City Manager as developed in collaboration with the City's Community Forest Advisory Board (formerly Tree Advisory Board);

Authorizing the City Auditor and Comptroller to establish an interest bearing endowment fund, Fund No. 10538, titled "The Figg Urban Forestry Endowment Fund;"

Authorizing the City Auditor and Comptroller to expend 90 percent of the annual realized earnings in Fund No. 10538 for the purposes stipulated by the Figg estate and endow the remaining 10 percent of realized earnings each year to the fund balance.

**CITY MANAGER SUPPORTING INFORMATION:**

In December 2001, a charitable donation was received by the City from the Estate of Walter Carlisle Figg, Jr. ("Mr. Figg") to provide the City with financial resources for the planting and maintenance of jacaranda trees along its streets. In January 2002, a new fund was established by the City Auditor, The Jacaranda Tree Maintenance Fund (the "Jacaranda Fund"), to hold and manage this donation.

The charitable donation capital received by the City in December 2001 is three hundred eleven thousand four hundred seventy-five dollars and sixty-two cents (\$311,475.62). Subsequent to the original donation, an additional donation in the amount of one thousand seven hundred forty-eight dollars and eleven cents (\$1,748.11) was received in August 2002 as a final distribution from Mr. Figg's Estate. The total capital of the Jacaranda Fund, thus, amounts to \$313,223. Staff in the City Manager's Office in collaboration with the Community Forest Advisory Board have developed recommendations for the most effective management and use of Mr. Figg's donation consistent with the conditions under which the donation was made to the City. It was unanimously agreed that directing this generous donation into an endowment fund meets two important objectives:

1. Insures that the City will have an on-going planting and maintenance program for the City's official tree, the jacaranda, without incurring any additional expense associated

with accepting this donation.

2. Insures the greatest number of trees are planted with the limited annual proceeds by buying trees in smaller, less expensive sizes and growing them, that the trees are planted in every Council District, as well as that the City's official tree is planted in high visibility areas.

Through this Council action, the City will officially accept the charitable donations from the Figg Estate for the purposes stipulated by Mr. Figg, endow these assets in perpetuity and honor Mr. Figg's generosity and foresight by changing the current name of the Jacaranda Fund to The Figg Urban Forestry Endowment Fund.

In addition, it is the unanimous view of staff that the recommendations developed by the Community Forest Advisory Board for management of the assets, administration of annually realized earnings, if any, and annual distributions of jacaranda trees throughout the City be adopted by Council.

**FISCAL IMPACT:**

There is no fiscal impact with this action.

Herring/Dunchack/DEW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:25 p.m. - 5:28 p.m.)

MOTION BY LEWIS TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-125: Two actions related to First Amendment to Western Pacific Housing Reclaimed Water Pipelines Participation Agreement.

(See memorandum from Larry Gardner dated 11/7/2002. Torrey Highlands Community Area. District-1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2003-524)

ADOPTED AS RESOLUTION R-297477

Authorizing the City Manager to execute the First Amendment to the Participation Agreement with Western Pacific Housing-Cabrera for the Construction of the Camino Ruiz/Torrey Highlands Subarea IV Reclaimed Water Pipelines (Agreement);

Authorizing the expenditure of an amount not to exceed \$614,976 in Water Fund 41500, CIP-70-954.0, North City Reclamation System (Western Pacific Participation Agreement) for the purpose of funding the Agreement and related in-house costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying the funds necessary for expenditure are, or will be, on deposit with the City Treasury;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

Subitem-B: (R-2003-702)

ADOPTED AS RESOLUTION R-297478

Declaring that the information contained in Environmental Impact Report LDR-93-015.2, including any comments received during the public review process, has been reviewed and considered by Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the First Amendment to Western Pacific Housing Reclaimed Water Pipelines Participation Agreement;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 11/13/2002, NR&C voted 5 to 0 to approve. (Councilmembers Peters Wear, Frye, Madaffer and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

On January 8, 2002, the City entered into a Participation Agreement (RR-295920) with Western Pacific Housing, the lead developer in Torrey Highlands, to design and construct reclaimed water facilities in Camino Ruiz and Torrey Santa Fe Road, both within Subarea IV, for a total cost of \$1,118,836. The installation of the 12-inch reclaimed pipeline in Camino Ruiz is complete and

the 24-inch reclaimed pipeline within Torrey Santa Fe Road is currently under construction. The First Amendment will authorize additional funds needed to cover the actual cost of constructing the 24-inch reclaimed water pipelines within Torrey Santa Fe Road. Originally, the agreement called for “cathodic protection test stations” along the 24-inch reclaimed water pipeline. However, during design, the Water Department determined that a full cathodic protection system was necessary due to corrosive soil. As a result of this change, the lowest construction bid was higher than the original participation agreement cost estimate. The cost increase was \$247,238 or 22.66% of the bid.

The First Amendment will also authorize the construction of an additional 1,240 feet of 24-inch reclaimed water pipeline in Torrey Meadows Drive concurrent with new road construction. This segment of pipeline will connect the reclaimed water pipeline within Torrey Santa Fe Road with the Caltrans’ reclaimed water pipeline in State Route 56, providing a necessary link in the reclaimed water system. Two developments (Western Pacific Housing and McMillin communities) are served by this portion of Torrey Meadows Drive. Western Pacific Housing has a map condition to design and construct 420 feet of 8-inch reclaimed water pipe along Torrey Meadows Drive while the developer (McMillin Communities) of the remaining 820 feet has no reclaimed water pipeline map condition. The City and Western Pacific will cost-share the 420-foot section of pipe with a 60/40 cost-share, respectively due to up-sizing from 8-inch to 24-inch diameter pipe. The remaining 820 feet of 24-inch reclaimed water pipe will be funded 100% by the City. Western Pacific Housing will construct the entire segment.

Installing the reclaimed water pipelines concurrent with new road construction will result in a 20% savings in engineering design, overall project coordination, and construction costs as well as reducing construction impacts to the community. In addition, it will help the City meet its beneficial reuse goals established as part of the North City Reclaimed Water Plant Environmental Protection Agency (EPA) construction grant. This reclaimed water system will serve Subarea IV, Torrey Highlands and west along State Route 56.

**FISCAL IMPACT:**

The total cost of the project is \$1,762,372 of which \$1,147,396 has already been authorized. Funding of \$614,976 is available in FY03, Water Fund 41500, CIP-70-954.0/70-955.8, North City Reclamation System - Western Pacific Housing Participation Agreement.

Mendes/Gardner/MS

Aud. Cert. 2300576.



FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-126: Appointment to the San Diego Unified Port District Board of Commissioners.

(See memorandum from Mayor Murphy dated 11/5/2002 with resume attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-735) ADOPTED AS RESOLUTION R-297479

Council confirmation of the appointment by the Mayor of Stephen P. Cushman to serve as a member of the San Diego Unified Port District Board of Commissioners for a term ending January 2, 2007.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO CONFIRM THE APPOINTMENT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-127: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-549)

ADOPTED AS RESOLUTION R-297480

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L-State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\* ITEM-128: Declaring a Continued State of Emergency due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-410)

ADOPTED AS RESOLUTION R-297481

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L-State of Emergency due to economic circumstances in the San Diego-Tijuana border region

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchett-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- \* ITEM-129: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-627)

ADOPTED AS RESOLUTION R-297482

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L-State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

- ITEM-130: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-769)

ADOPTED AS RESOLUTION R-297483

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

**CITY MANAGER'S SUPPORTING INFORMATION:**

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In

order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L-Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 5:11 p.m. - 5:24 p.m.)

MOTION BY FRYE TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ITEM-150: Two actions related to Barrio Logan Emergency Ordinance and Planned District Ordinance Amendment.

(See City Manager Report CMR-02-208 and memorandum from Councilmember Inzunza dated 9/18/2002. Barrio Logan Community Area. District-8.)

**TODAY'S ACTIONS ARE:**

Introduce and adopt the ordinance in Subitem A and introduce the ordinance in Subitem B:

Subitem-A: (O-2003-82) INTRODUCED AND ADOPTED AS  
ORDINANCE O-19133 (New Series)

Introduction and adoption of an Emergency Ordinance amending Chapter 10, Article 3, Division 9, of the San Diego Municipal Code, by amending Sections 103.0902, 103.0926, and 103.0946, all relating to Barrio Logan Planned District.

**NOTE:** 6 votes required pursuant to section 17 of the City Charter.

Subitem-B: (O-2003-92) CONTINUED TO JANUARY 7, 2003

Introduction of an Ordinance amending Chapter 10, Article 3, Division 9, of the San Diego Municipal Code, by amending Sections 103.0902, 103.0926, and 103.0946, all relating to Barrio Logan Planned District.

Aud. Cert. 2300622.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 9/18/2002, LU&H voted 3 to 0 to approve Recommendations 1 and 2 contained in Councilmember Inzunza's memorandum. The Committee made no recommendation on Recommendation 3 in Councilmember Inzunza's memorandum, but directed staff to devise options with community support which meet all legal tests. (Councilmembers Peters, Wear and Frye voted yea. Councilmembers Stevens and Maienschein not present.)

FILE LOCATION:                      SUBITEM A: MEET  
    SUBITEM B: NONE

COUNCIL ACTION:                      (Time duration: 2:39 p.m. - 2:40 p.m.)

MOTION BY INZUNZA TO INTRODUCE, DISPENSE WITH THE READING AND ADOPT THE ORDINANCE IN SUBITEM A , AND CONTINUE SUBITEM B TO JANUARY 7, 2003 IN ORDER TO ALLOW TIME FOR NOTICING TO OCCUR. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-151: Long-Range Water Resources Plan (2002-2030).

(See City Manager Report CMR-02-240.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-657)                      ADOPTED AS RESOLUTION R-297484

Adopting the City of San Diego Long-Range Water Resources Plan (2002-2030).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 10/23/2002, NR&C voted 5 to 0 to approve the City Manager's recommendations and clarify that this is a resources based document and not a structural-organizational document. Direct the City Manager to give a report on the Alaska Water Exports issue at a future Natural Resources and Culture Committee meeting. (Councilmembers Peters, Wear, Frye, Madaffer and Inzunza

voted yea.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:55 p.m. - 3:55 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote:  
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea,  
Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-152: PBS&J, Inc. - Condition Assessment of Sewer Mains, Phase III.

(See memorandum from Scott Tulloch dated 9/11/2002. Rancho Bernardo, Clairemont Mesa, Serra Mesa, Linda Vista, La Jolla, Pacific Beach and University Community Areas. Districts-1, 2, 5, 6, and 7.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-738) ADOPTED AS RESOLUTION R-297485

Authorizing the City Manager to execute a Phase Funded Agreement with Post, Buckley, Schuh & Jernigan, Inc., for professional services to perform Condition Assessment of Sewer Mains for an amount not to exceed \$6,274,965 for a two-year fiscal period;

Declaring that funding for the two phases be allocated as follows: Phase 1 (FY 2003) - \$3,000,000; Phase 2 (FY 2004) - \$3,274,965, with execution of Phase 2 by the City Manager contingent upon City Council approval of the Originating Department's operating budget of Fiscal Year 2004;

Transferring an amount not to exceed \$1,386,182 from Fund 41506, CIP-46-215.0, Annual Allocation - Infrastructure Upgrade and Replacement and an amount not to exceed \$1,613,818 from Fund No. 41506, CIP-46-191.01, Brine Management Force Main & Pump Station, for a total amount of \$3,000,000 to Fund No. 41506, Department 773, Org. No. 820, Job Order No. 8206;

Authorizing the expenditure of an amount not to exceed \$6,274,965 from Fund

No. 41506, Department 773, Org. No. 820, Job Order No. 8206, for the purpose of funding this agreement in the following manner:

Phase 1..... \$3,000,000 from FY 2003 appropriations  
(Continued)

Phase 2..... \$3,274,965 from FY 2004 appropriations, contingent upon the approval of the FY 2004 Operating Budget, and provided the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/18/2002, NR&C voted 3 to 0 to approve. (Councilmembers Wear, Frye and Madaffer voted yea. Councilmember Peters and Inzunza not present.)

**CITY MANAGER SUPPORTING INFORMATION:**

This request is to enter into an Agreement with PBS&J, Inc. for the televising and condition assessment of selected sewer mains and manholes, in the amount of \$6,274,965. In accordance with Council Policy 300-07, the City held interviews on July 9, 2002 with seven firms, and PBS&J, Inc. was selected as one of the two best qualified firms to provide this service. Prime subcontractors on this project are Dye Surveying, Inc. (DBE), Cecilia's Safety Services (DBE), Downstream Services, and Houston & Harris. On September 18, 2002, the NR&C Committee approved this agreement with PBS&J with a 3-0 vote.

The Mayor and Council have identified water quality as an important goal for the City. The Metropolitan Wastewater Department is focused on preventing sewage system spills and minimizing these spills' collective impact on the environment. PBS&J, Inc. has demonstrated an ability to televise and report results on an aggressive schedule, which results in timely identification of blockages that may cause costly sewer spills. Thus, this CCTV inspection data allows City crews to remove the blockages or repair the damage, thereby preventing the spills before they occur. Additionally the data will be instrumental in evaluating the condition of the sewer mains and identifying locations where high priority rehabilitation or replacement of sewer facilities is required.

The work to be performed under this agreement consists of televising selected City sewer mains and sewer manholes located in the northern part of the City of San Diego and assessing their existing condition. A total of 277 miles of mains, ranging from 4 inches to 30 inches in diameter, and 5,662 manholes will be televised and assessed.

Approximately 276.7 miles of these sewer mains are accessible via existing roads. In areas where vehicular access is prohibited, the televising will be accomplished by hand-carrying battery operated equipment to the remote locations. The locations of the sewer mains to be televised include the communities of Rancho Bernardo, Clairemont Mesa, Serra Mesa, Linda Vista, La Jolla, Pacific Beach, and the University Area.

The Consultant shall also prepare inspection reports to document observed conditions, structural defects and other pertinent findings. The inspection and report work shall be completed within two hundred forty (240) workdays from the Notice to Proceed date. This is part of the third phase of a multi-phase program to televise City sewers, for a not-to-exceed amount of \$6,274,965.

**FISCAL IMPACT:**

The total of this action is \$6,274,965, of which \$3,000,000 is available in FY03 in Fund 41506, CIP-46-215.0 and 46-191.0, and \$3,274,965 will be available in FY04 contingent upon Operating budget approval.

Mendes/Tulloch/DG

Aud. Cert. 2300563.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:29 p.m. - 5:29 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-153: Agreement with Hirsch & Company to Perform Condition Assessment of Sewer Mains, Phase III.

(See memorandum from Scott Tulloch dated 9/11/2002. Navajo, Encanto, Skyline/Paradise Hills, Otay Mesa, San Ysidro Community Areas. Districts-2, 3, 4, 7, and 8.)



**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-739)                      ADOPTED AS RESOLUTION R-297486

Authorizing the City Manager to execute a Phase Funded Agreement with Hirsch & Company, for professional services to perform Condition Assessment of Sewer Mains for an amount not to exceed \$6,952,320 for a two-year fiscal period;

Declaring that funding for the two phases be allocated as follows: Phase 1 (FY 2003) - \$3,000,000; Phase 2 (FY 2004) - \$3,952,320, with execution of Phase 2 by the City Manager contingent upon City Council approval of the originating department's operating budget of Fiscal Year 2004;

Declaring that an amount not to exceed \$3,000,000 from Fund 41506, CIP-46-215.0, Annual Allocation - Infrastructure Upgrade Replacement, be transferred to Fund No. 41506, Department 773, Org. No. 820, Job Order No. 8206;

Authorizing the expenditure of an amount not to exceed \$6,952,320 from Fund No. 41506, Department 773, Org. No. 820, Job Order No. 8206, for the purpose of funding this agreement in the following manner:

Phase 1 - \$3,000,000 from FY 2003 appropriations

Phase 2 - \$3,952,320 from FY 2004 appropriations, contingent upon the approval of the FY 2004 Operating Budget, and provided the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/18/2002, NR&C voted 3 to 0 to approve. (Councilmembers Wear, Frye, and Madaffer voted yea. Councilmembers Peters and Inzunza not present.)

**CITY MANAGER SUPPORTING INFORMATION:**

This request is to enter into an Agreement with Hirsch & Co. for the televising and condition assessment of selected sewer mains and manholes, in the amount of \$6,952,320. In accordance with Council Policy 300-07, the City held interviews on July 9, 2002 with seven firms, and

Hirsch & Co. was selected as one of the two best qualified firms to provide this service. Prime subcontractors on this project are Libby Engineers (DBE), Infrastructure Engineering Corp. (WBE), National Plant Services, Air X, LKS & Associates (WBE), Katz & Associates (WBE), Affordable Pipeline, Innerline Engineering, and ACME Safety and Supply Co. (WBE). On September 18, 2002, the NR&C Committee approved this agreement with Hirsch & Co. with a 3-0 vote. The Mayor and Council have identified water quality as an important goal for the City. The Metropolitan Wastewater Department is focused on preventing municipal sewage system spills and minimizing these spills' collective impact on the environment. Hirsch & Co. has demonstrated an ability to televise and report results on an aggressive schedule, which results in timely identification of blockages that may cause costly sewer spills. Thus, this CCTV inspection data allows City crews to remove the blockages or repair the damage, thereby preventing spills before they occur. Additionally the data will be instrumental in evaluating the condition of the sewer mains and identifying locations where high priority rehabilitation or replacement of sewer facilities is required.

The work to be performed under this agreement consists of televising selected City sewer mains and sewer manholes located in the southern part of San Diego and assessing their existing condition. A total of 321 miles of mains, ranging from 4 inches to 36 inches in diameter, and 6,763 manholes will be televised and assessed. Approximately 320.1 miles of these sewer mains are accessible via existing roads. In areas where vehicular access is prohibited, the televising will be accomplished by hand-carrying battery operated equipment to the restricted locations. The locations of the sewer mains to be televised include the communities of Navajo, Encanto, Skyline-Paradise Hills, Otay Mesa, and San Ysidro, with the rest scattered through downtown.

The Consultant shall also prepare inspection reports to document observed conditions, structural defects and other pertinent findings. The inspection and report work shall be completed within two hundred forty (240) workdays from the Notice to Proceed date. This is part of the third phase of a multi-phase program to televise City sewers, for a not-to-exceed amount of \$6,952,320.

**FISCAL IMPACT:**

The total cost of this action is \$6,952,320, of which \$3,000,000 is available in FY 2003 in Fund 41506, CIP-46-215.0, and \$3,952,320 will be available in FY 2004 contingent upon FY 2004 Operating budget approval.

Mendes/Tulloch/DG

Aud. Cert. 2300573.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:29 p.m. - 5:29 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Reclaimed Water Business Plan.

(See City Manager Report CMR-02-162.)

(Continued from the meeting of November 26, 2002, Item 331, at Mayor Murphy's request, for further review.)

**NOTE:** Hearing open. No testimony taken on 11/26/2002.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2003-527 Cor. Copy)      ADOPTED WITH DIRECTIONS  
AS RESOLUTION R-297487

Authorizing the City Manager, in conjunction with the Public Utilities Advisory Commission, to develop criteria and procedures to enforce the Reclaimed Water Mandatory Reuse Ordinance, San Diego Municipal Code Section 64.0801 et. seq., of Division 8: Water Reclamation and Ocean Monitoring, of Article 4: Sewers;

Authorizing the City Manager to proceed with recommendations to modify the Land Development Code process to allow the reclaimed water to become part of the Land Development Code;

Approving a Commercial Tenant Improvement Plan Review Fee of \$400 for over-the-counter reclaimed water plan checks and a Fee for Service deposit of \$2,400 for projects requiring the plan submittal for review, both effective January 27, 2003.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/17/2002, NR&C voted 5 to 0.

- C. Approve the City Manager's recommendations.
- D. Develop procedures/criteria to implement the Mandatory Reuse Ordinance.
- E. Direct the City Manager to review the Water Assurance Plan and report back on how it relates to the Reclaimed Water Business Plan.
- F. Direct the City Manager to review pricing alternatives to encourage conservation.
- G. Direct the City Manager to review the issue of further reducing the reclaimed water rate.
- H. Include landscaping, water conservation, and water quality as part of the Reclaimed Water Business Plan.
- I. Provide Geographic Information System overlay/environmental review on the impacts of Total Dissolved Solids on reclaimed water.
- J. Direct the City Manager to analyze water use patterns at City-owned parks and recommended water conservation measures.
- K. Direct the City Manager to develop and implement a public awareness/outreach campaign, to include the costs of implementing such program.
- L. Direct the City Manager to seek Federal and State funding for reclaimed water projects.
- M. Report back to the Natural Resources and Culture Committee within 90 days.

(Councilmembers Peters, Wear, Frye, Madaffer and Inzunza voted yea.)

**CITY MANAGER SUPPORTING INFORMATION:**

The City's strategic reclaimed water objective is to increase the number of customers using reclaimed rather than potable water. This will enable the City to beneficially utilize reclaimed water plant production capacity to the greatest extent possible and provide a reliable alternative water source to non-potable customers. The Reclaimed Water Business Plan builds on previous City Council actions to further this objective.

On July 24, 1989, the City Council adopted Ordinance 0-17327 N.S., known as the Mandatory Reuse Ordinance. This Ordinance authorized the City Manager to make preliminary determinations on the conversion of potable water customers to reclaimed water, condition development projects to use reclaimed water, and require reclaimed water facilities as a condition for approval of building permits. The Mandatory Reuse Ordinance establishes the policy that reclaimed water shall be used within its jurisdiction wherever feasible, and consistent with legal requirements, preservation of the public health, safety and welfare, and the environment.

Other actions to further the beneficial use of reclaimed water included: preparation of the Beneficial Reuse Study (BRS) which identified the most cost-effective use of reclaimed water;

development of a long-term capital program based on the findings of the Reclaimed Water Master Plan (an update to the Beneficial Reuse Study); and reduction of reclaimed water rates from \$580/Acre-Foot (AF) or \$1.34/Hundred Cubic Feet (HCF) to \$350/AF or \$0.80/HCF.

The Manager's Report details an on-going strategy, as well as identifies an internal City process to implement the Reclaimed Water Business Plan in a customer friendly and efficient manner. The reclaimed water strategy that the Water Department is pursuing, as detailed in the BRS, is to connect large, single-meter customers to the system in order to develop the most cost effective non-potable reclaimed water distribution system.

Three actions are requested. The first is for the Water Department to work with the Public Utilities Advisory Commission to develop procedures to enforce a provision in the Mandatory Reuse Ordinance requiring existing potable water customers to convert to use reclaimed water. The second action is to modify the Land Development Code (LDC) to include reclaimed water. The LDC has established rules and regulations regarding the use of the land development process to extend water and wastewater facilities within the City of San Diego but does not currently include reclaimed water facilities. The third action will establish plan check fees to recover the cost of City staff plan review. Staff recommends a Commercial Tenant Improvement Plan Review Fee of \$400 for over-the-counter reclaimed water plan checks and a Fee for Service deposit of \$2,400 for projects requiring plan submittal for review. Similar fees are currently being used for cost recovery on water and wastewater plan reviews. These fees would become effective January 27, 2003.

On July 17, 2002, the Natural Resources and Culture Committee reviewed and gave tentative approval to the Reclaimed Water Business Plan.

A more detailed description of the Reclaimed Water Business Plan can be found in the Manager's Report.

**FISCAL IMPACT:**

None. Additional costs to implement this action will be reimbursed through building permit plan check fees.

Mendes/Gardner/MS

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:35 p.m. - 5:07 p.m.)

Testimony in favor by S. Wayne Rosenbaum.

MOTION BY MADAFFER TO ADOPT WITH DIRECTION FROM MAYOR MURPHY THAT THE NATURAL RESOURCES AND CULTURE COMMITTEE PROVIDE QUARTERLY REPORTS FOR THE CITY COUNCIL ON THE STATUS OF THE PLAN, AS WELL AS AN ANNUAL REPORT ON THE OVERALL PROGRESS OF THE PLAN. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: Settlement of the Property Damage Claim of San Diego Police Officers' Association.

(R-2003-718)

Adopted as Resolution R-297364

A Resolution approved by the City Council in Closed Session on Tuesday, November 19, 2002, by the following vote: Peters-yea; Wear-yea; Atkins-yea; Stevens-not present; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$36,036 in the settlement of each and every claim against the City, its agents and employees, resulting from the property damage claim to San Diego Police Officers' Association. (Superior Court Case No. 743805, San Diego Police Officers' Association v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue one check in the total amount of \$36,036 made payable to San Diego Police Officers' Association and Law Offices of Everett L. Bobbitt, in full settlement of all claims.

Aud. Cert. 2300554.

ITEM-S400: San Diego SunFire Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-705)

ADOPTED AS RESOLUTION R-297488

Commending Donna Fox for her efforts as the founder and General Manager of the San Diego SunFire Women's Professional Football team;

Proclaiming December 14, 2002 to be "San Diego SunFire Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:21 p.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S401: Excusing Councilmember Toni Atkins from the December 2, 2002 City Council Meeting.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2003-770)

ADOPTED AS RESOLUTION R-297489

Excusing Councilmember Toni Atkins from attending the regularly scheduled Council meeting of December 2, 2002, due to her attendance to other City business in Sacramento.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S402: Excusing Councilmember Toni Atkins from the November 20, 2002 Committee on Rules, Finance and Intergovernmental Relations Meeting.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2003-771)

ADOPTED AS RESOLUTION R-297490

Excusing Councilmember Toni Atkins from attending the regularly scheduled Committee on Rules, Finance and Intergovernmental Relations meeting of November 20, 2002, due to other official City business representing the City of San Diego at the 18<sup>th</sup> Annual INGLO Conference.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S403: Mary Ball Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-781)

ADOPTED AS RESOLUTION R-297491

Proclaiming December 13, 2002 as "Mary Ball Day" in the City of San Diego, in recognition of her many outstanding contributions and service to San Diego.

**SUPPORTING INFORMATION:**

Mary Ball is ending her 2-year term as President of the San Diego County Taxpayers Association. During her tenure, she tackled her duties with energy, generosity, and integrity and has led the association to a new level of effectiveness. She is a treasured leader in the San Diego community.



Maienschein

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S404: Robert Ilko Day.

**COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-779) ADOPTED AS RESOLUTION R-297492

Proclaiming December 12, 2002 to be "Robert Ilko Day" in the City of San Diego.

**SUPPORTING INFORMATION:**

Robert Ilko is the Scripps Ranch Citizen of the Year for 2002. He has volunteered countless hours of service to the community through his participation in the Scripps Ranch Civic Association and the Scripps Ranch Planning Group. He is also one of the founding members of the Save Our Scripps Ranch Organization where he played an important role in the preservation of Meanley Wall and Evans Pond. Robert's gift of time and leadership has improved the quality of life for all Scripps Ranch residents.

Maienschein

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S405: Resubdivision of Del Mar Heights 1 Unit No. 3 Final Map.

(Carmel Valley Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-755)

ADOPTED AS RESOLUTION R-297493

Approving Map of Resubdivision of Del Mar Heights 1 Unit No. 3.

**CITY MANAGER SUPPORTING INFORMATION:**

This map proposes the resubdivision of a 4.042 acre site into 9 lots for residential development plus Lots "A", "B", "C" and "D". It is located northerly of Del Mar Heights Road at the easterly terminus of White Emerald Drive in the Carmel Valley Community Plan area in Council District 1.

This map is a resubdivision of the existing Del Mar Heights 1 Unit No. 3 final map. The purpose of this map is to realign the easterly terminus of White Emerald Drive. The original Del Mar Heights 1 Unit No. 3 was mapped incorrectly. As a result, a correction is required in order to accommodate the product as planned. In order to do so, the previously existing White Emerald Drive is being vacated, which requires City Council approval, and White Emerald Drive in a new configuration is being granted and dedicated on the new map. There are no new lots being created by this map, therefore there are no additional trips being generated on the surrounding freeways. All public improvements, as well as all Tentative Map conditions, were provided for in connection with Del Mar Heights 1 Unit 3 Map No. 13537.

**FISCAL IMPACT:**

None.

Ewell/Broughton/GB

FILE LOCATION: LUP-Del Mar Heights 1 Unit No. 3, 12/09/02 (65)

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S406: Fortuna Mountain Conservation Bank Agreement, Acceptance of Grant Deed and Endowment.

(Mission Trails Regional Park Community Area. District-7.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-772)

ADOPTED AS RESOLUTION R-297494

Authorizing the City Manager to execute the Fortuna Mountain Conservation Bank Agreement, establishing a mitigation bank for the Property upon the conveyance of fee title to the Property to the City of San Diego and requiring the deposit of an endowment in the amount of \$69,000 for the management of the Property;

Authorizing the City Manager, upon execution of the Fortuna Mountain Conservation Bank Agreement and pursuant to its terms, to accept a grant deed [the Grant Deed] conveying fee title to the Property to the City of San Diego;

Authorizing the City Manager to accept, pursuant to the terms of the Fortuna Mountain Conservation Bank Agreement, an endowment in the amount of \$69,000 for the management and maintenance of the Property;

Authorizing the City Auditor and Comptroller to establish a separate interest bearing account for the \$69,000 endowment.

**CITY MANAGER SUPPORTING INFORMATION:**

The proposal is the acceptance of the fee title to 266-acre located on South Fortuna Mountain adjacent to Mission Trails Regional Park for the Park and Recreation Department. The Zoological Society is purchasing this land in order to fulfill the biological mitigation requirements (up to 219.5 acres of Tier II habitat depending upon the final acreage of the expansion project) of the San Diego Wild Animal Park Program EIR, LDR No. 99-0153. The

Wild Animal Park project was approved by the Planning Commission on April 4, 2001; Resolution Number 3119-PC.

The Zoological Society has entered into an agreement with San Diego State University (SDSU) to acquire 266 acres of the Fortuna Mountain Research Reserve (total of 487 acres) which will be deeded directly to the City of San Diego in fee title. The Zoological Society would provide an endowment in the amount of \$69,000 to the Park and Recreation Department for management of the property. The property would be managed as part of Mission Trails Regional Park.

The proposed Fortuna Mountain Conservation Bank Agreement between the City and the Zoological Society requires conveyance of the property in fee title to the City and deposit of the \$69,000 endowment with the City in a separate interest bearing account and establishes a mitigation bank to track the environmental credits used by the Zoological Society.

**FISCAL IMPACT:**

The Zoological Society will provide the City with an endowment in the amount of \$69,000 to fund continual management of the property.

Herring/Griffith/LBM

FILE LOCATION: DEED F-9363

COUNCIL ACTION: (Time duration: 2:53 p.m. - 3:00 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S407: State of California Natural Communities Conservation Planning Grant Program.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-740) ADOPTED AS RESOLUTION R-297495

Authorizing the City Manager, or his representative, to submit an application to the State of California's Natural Communities Conservation Planning Grant

Program;

Authorizing the City Manager, or his representative, to take all necessary actions to secure funding;

Authorizing the City Manager, or his representative, to conduct all negotiations, execute and submit all documents, including but not limited to applications, amendments, and payment requests which may be necessary for the completion of the project;

Authorizing the acceptance and expenditure of monies if grants are awarded, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Directing the City Auditor and Comptroller to establish a special interest bearing account.

**CITY MANAGER SUPPORTING INFORMATION:**

The City of San Diego is requesting consideration of the following proposals under the State's 2002-2003 NCCP Implementation grant program. The Multiple Species Conservation Program (MSCP) is the local equivalent of the State's Natural Communities Conservation Planning (NCCP) Program of which the City of San Diego is a participating member. The City of San Diego adopted the MSCP on March 18, 1997 (Council Resolution R-288455). These grants would allow the City to obtain State funding to fulfill tasks related to monitoring and management of lands within the MSCP.

The two proposals are as follows:

1. Burrowing Owl Habitat Enhancement, Management, and Monitoring Plan: This grant will help assist in the recovery of burrowing owls, a sensitive bird species within the City of San Diego. MSCP staff will use this grant to fund identification of City-owned lands with historic or potential burrowing owl habitat. These sites will be ranked based on their potential to support burrowing owls. Sites with high ranking will then be enhanced and den boxes installed to encourage use by burrowing owls. A management and monitoring plan will be developed for the modified sites outlining the work that would be required to maintain them as suitable for burrowing owl use.
2. GIS Management and Monitoring Database Phase 2: The City will use this grant

to fund design and implement a pilot project to integrate biological data collection, data storage/management and analysis into a comprehensive management and monitoring system using geographic information system (GIS) and relational database software.

**FISCAL IMPACT:**

A total of \$51,007 would be received if all grants are approved. A total of \$35,886.35 of in-kind matching services from the City is proposed. The in-kind services have been included in the Department's approved FY 2003 budget.

Ewell/Goldberg/HEC

Aud. Cert. 2300598.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S408: La Jolla Country Club Villas Drainage Vacation.

(La Jolla Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-754) CONTINUED TO JANUARY 13, 2003, WITH  
DIRECTIONS

Vacating the drainage easement located east of Fay Avenue, on the northeast side of Muirlands Drive, to unencumber this property under the procedure for the summary vacation of public service easements, Section 8330 et seq. of the California Streets and Highways Code;

Authorizing the drainage easement rights to be sold to Centex Homes for

\$232,300;

Authorizing the City Manager, or his designee, to execute a quitclaim deed to Centex Homes, for those drainage easement rights;

Declaring that no broker's commission shall be paid by the City on the negotiated sale.

**CITY MANAGER SUPPORTING INFORMATION:**

The vacation and sale to Centex Homes of the City's drainage easement at fair market value (\$232,300) satisfies Condition No. 24 of Country Club Villas, VTM No. 99-1268, Adopted December 14, 2000.

**FISCAL IMPACT:**

The amount of \$232,300 to be deposited into the Capital Outlay Fund No. 302453.

Herring/Griffith/RAG

FILE LOCATION: DEED F-9364

COUNCIL ACTION: (Time duration: 3:23 p.m. - 3:38 p.m.)

MOTION BY PETERS TO CONTINUE TO JANUARY 13, 2003 FOR FURTHER REVIEW. MAYOR MURPHY REQUESTED THAT A MORE COMPLETE REPORT BE PROVIDED ON MATERIALS USED IN VACATING THE DRAINAGE EASEMENT. COUNCIL MEMBER MADAFFER DIRECTED THAT, AS A PART OF THE REPORT, A DISCUSSION BE INCLUDED ON THE POLICY OF USING GUNITE IN THE CITY OF SAN DIEGO AND SPECIFICALLY WHETHER OR NOT SLOPES ARE STILL BEING GUNITED, WHICH WOULD INCLUDE SLOPES THAT ARE LOCATED ALONG THE COAST OR ANY OTHER AREA. COUNCIL MEMBER FRYE REQUESTED THAT THE CITY MANAGER MAKE FILES AND MICROFICHE ON THESE TYPES OF PROJECTS ACCESSIBLE TO THE COMMUNITY. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.



\*ITEM-S409: Memorandum of Understanding (MOU) between City of San Diego and California Coastal Commission Regarding La Jolla Parking and Transportation Fund.

(La Jolla Community Area. District-1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-767)

ADOPTED AS RESOLUTION R-297496

Authorizing the City Manager to execute a Memorandum of Understanding (MOU) with the California Coastal Commission regarding the La Jolla Parking and Transportation Plan;

Authorizing the City Auditor and Comptroller to accept approximately \$304,000 from the California Coastal Commission for implementation of the parking management strategies as outlined in the La Jolla Parking Study;

Authorizing the City Auditor and Comptroller to establish a separate interest bearing fund to deposit monies received from the California Coastal Commission.

**CITY MANAGER SUPPORTING INFORMATION:**

The "La Jolla Parking and Transportation Fund" (Fund) is presently held by the Treasurer of the State of California for the Coastal Commission in a Special Deposit Fund Account. It consists of mitigation fees (Funds) collected by the Commission pursuant to special conditions included in multiple Coastal Development Permits authorizing development in La Jolla. There is currently approximately \$304,000 in the Fund. In accordance with the conditions of the Coastal Development Permits, the Funds are to be used to pay for costs associated with implementation of the parking and traffic recommendations contained in the La Jolla Parking and Transportation Plan.

Among other things, the permit conditions further provide that the City may establish its own program which implements the recommendations of the La Jolla Parking and Transportation Plan. Upon approval by the Coastal Commission, the Funds may instead be used in accordance with the City's approved program.

The City recently hired an independent parking consultant, Wilbur Smith Associates (WSA) who conducted a major parking study for the Village area of La Jolla. The parking study was

approved by the Council Committee on Land Use and Housing on September 4, 2002. Based on the WSA parking study, the City now wishes to revise the La Jolla Parking and Transportation Plan and amend the Local Coastal Plan (LCP) to better address current and future parking and transportation needs in La Jolla.

Upon execution of this Memorandum of Understanding by both parties, the Coastal Commission is to effectuate a transfer from the State Treasurer to the City of the entire balance of Funds, together with accrued interest, contained in the La Jolla Parking and Transportation Fund. The Funds may be used for implementation of the Parking management strategies outlined in the WSA parking study after approval by Council and the Coastal Commission.

Staff plans to bring the new La Jolla parking and transportation plan for consideration by Council in early 2003. Request for the Coastal Commission approval of the parking and transportation plan and the LCP amendment will be made after Council approval of the plan.

**FISCAL IMPACT:**

Successful completion of this activity will result in return of the La Jolla Parking and Transportation Fund from the State Treasurer to the City, estimated at over \$304,000 which may be used for approved parking management strategies in La Jolla.

Ewell/Goldberg

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

\*ITEM-S410: Settlement of the Personal Injury Claim of Stanley L. Levine and LeSandra DeMarco.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-782)

ADOPTED AS RESOLUTION R-297497

A Resolution approved by the City Council in Closed Session on Tuesday, November 26, 2002, by the following vote: Peters-not present; Wear-yea; Atkins-yea; Stevens-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-yea; Mayor-yea.

Authorizing the City Manager to pay the total sum of \$66,500 in the settlement of each and every claim against the City, its agents and employees, resulting from the personal injury/property damage to Stanley L. Levine and LeSandra DeMarco (Superior Court Case No. GIC-779247, Stanley L. Levine and LeSandra DeMarco v. City of San Diego, et al.);

Authorizing the City Auditor and Comptroller to issue three checks, one in the amount of \$57,000 made payable to Stanley L. Levine and his attorney James M. Stern; one in the amount of \$8,000 made payable to LeSandra DeMarco and her attorney James M. Stern; and one in the amount of \$1,500 made payable to State Farm Insurance Company in full settlement of all claims.

**CITY MANAGER SUPPORTING INFORMATION:**

This constitutes the complete and final settlement of the personal injury claim of Stanley L. Levine and LeSandra DeMarco against the City of San Diego, its agents and employees, as a result of an incident which occurred on January 4, 2001.

Lexin/Lopez/LH

Aud. Cert. 2300597.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**ITEM-S411: REFERRED TO CLOSED SESSION ON TUESDAY,  
DECEMBER 10, 2002**

Conference with Real Property Negotiator, pursuant to California Government

Code Section 54956.8:

Property: An approximate 10.3 acre area of Headquarters Point Research Park located west of Wateridge Circle and east of Lusk Boulevard (APN 340-090-55)

Agency Negotiator: Real Estate Assets Director

Negotiating Parties: Nexus/Phase 3 Properties, Inc. Cisterra Partners, LLC and Lowe Enterprises, Inc.

Under Negotiation: Results of the Request for Proposals and direction on ground lease or joint venture negotiations.

Prior to Council discussion Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this issue is listed on the docket **only** for public testimony.

**There is no Council discussion of this item. The City Council's actions are:**

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closes Session on December 10, 2002.

**NOTE:** Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

**Mayor Murphy closed the Hearing.**

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 3:39 p.m. - 3:43 p.m.)

\*ITEM-S412: Reappointments to the Housing Advisory and Appeals Board.

(See memorandum from Mayor Murphy dated 12/3/2002 with resumes attached.)

**MAYOR MURPHY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2003-780)

ADOPTED AS RESOLUTION R-297498

Council confirmation of the following reappointments by the Mayor to serve as members of the Housing Advisory and Appeals Board for terms expiring August 1, 2004:

Jaime M. Barton

Liliani Stiffler

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:22 p.m. - 2:32 p.m.)

CONSENT MOTION BY MADAFFER TO CONFIRM THE APPOINTMENTS.  
Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

**ADJOURNMENT:**

The meeting was adjourned by Mayor Murphy at 5:30 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:30 p.m.)